

SENATE BILL 776

Unofficial Copy
D4

2001 Regular Session
1lr0014

By: **Chairman, Judicial Proceedings Committee (Departmental - Human Resources)**

Introduced and read first time: February 9, 2001

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Child Support - Financial Institutions - Garnishment of Accounts**

3 FOR the purpose of requiring a financial institution to submit certain information to
4 the Child Support Enforcement Administration; authorizing the Administration
5 to seize and attach certain assets from an account or accounts of an obligor
6 under certain circumstances; requiring the Administration to send a notice
7 containing certain information to a financial institution, an obligor, and an
8 account holder of interest under certain circumstances; providing an obligor or
9 an account holder of interest the right to challenge a decision by the
10 Administration under certain circumstances; providing an obligor or an account
11 holder of interest the right to appeal the findings of the Administration after the
12 Administration has reviewed a challenge filed by the obligor or an account
13 holder of interest; providing for the right of a challenging party and the
14 Administration to withdraw a request for challenge or appeal; requiring the
15 Administration to take certain actions after completion of a challenge or appeal;
16 providing that a financial institution that complies with this Act is not liable for
17 certain actions; providing a certain exception for disclosures by fiduciary
18 institutions; defining certain terms; altering certain definitions; and generally
19 relating to the Child Support Enforcement Administration and the garnishment
20 of accounts.

21 BY renumbering

22 Article - Family Law
23 Section 10-108.3 through 10-108.5, respectively
24 to be Section 10-108.4 through 10-108.6, respectively
25 Annotated Code of Maryland
26 (1999 Replacement Volume and 2000 Supplement)

27 BY repealing and reenacting, with amendments,

28 Article - Family Law
29 Section 10-108.2
30 Annotated Code of Maryland
31 (1999 Replacement Volume and 2000 Supplement)

1 BY adding to
2 Article - Family Law
3 Section 10-108.3
4 Annotated Code of Maryland
5 (1999 Replacement Volume and 2000 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article - Financial Institutions
8 Section 1-302
9 Annotated Code of Maryland
10 (1998 Replacement Volume and 2000 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That Section(s) 10-108.3 through 10-108.5, respectively, of Article -
13 Family Law of the Annotated Code of Maryland be renumbered to be Section(s)
14 10-108.4 through 10-108.6, respectively.

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

17 **Article - Family Law**

18 10-108.2.

19 (a) (1) In this section[,] AND IN § 10-108.3 OF THIS SUBTITLE ["financial
20 institution" means] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

21 (2) (I) "ACCOUNT" MEANS:

22 1. ANY FUNDS FROM A DEMAND DEPOSIT ACCOUNT,
23 CHECKING ACCOUNT, NEGOTIABLE ORDER OF WITHDRAWAL ACCOUNT, SAVINGS
24 ACCOUNT, TIME DEPOSIT ACCOUNT, MONEY MARKET MUTUAL FUND ACCOUNT, OR
25 CERTIFICATE OF DEPOSIT ACCOUNT;

26 2. ANY FUNDS PAID TOWARDS THE PURCHASE OF SHARES
27 OR OTHER INTEREST IN A FINANCIAL INSTITUTION; AND

28 3. ANY FUNDS OR PROPERTY HELD BY A FINANCIAL
29 INSTITUTION.

30 (II) "ACCOUNT" DOES NOT INCLUDE:

31 1. AN ACCOUNT OR PORTION OF AN ACCOUNT TO WHICH AN
32 OBLIGOR DOES NOT HAVE ACCESS DUE TO THE PLEDGE OF THE FUNDS AS SECURITY
33 FOR A LOAN OR OTHER OBLIGATION;

34 2. FUNDS OR PROPERTY DEPOSITED TO AN ACCOUNT AFTER
35 THE TIME THAT THE FINANCIAL INSTITUTION INITIALLY ATTACHES THE ACCOUNT;

1 3. AN ACCOUNT OR PORTION OF AN ACCOUNT TO WHICH
2 THE FINANCIAL INSTITUTION HAS A PRESENT RIGHT TO EXERCISE A RIGHT OF
3 SETOFF; OR

4 4. BASED ON THE FINANCIAL INSTITUTION'S RECORDS, AN
5 ACCOUNT FOR WHICH THE OBLIGOR APPEARS TO BE ACTING SOLELY IN A
6 REPRESENTATIVE CAPACITY FOR ANOTHER PERSON OR PERSONS.

7 (3) "ACCOUNT HOLDER OF INTEREST" MEANS ANY PERSON, OTHER
8 THAN THE OBLIGOR, WHO ASSERTS AN OWNERSHIP INTEREST IN AN ACCOUNT.

9 (4) "FINANCIAL INSTITUTION" MEANS:

10 [(1)] (I) a depository institution, as defined in the Federal Deposit
11 Insurance Act at 12 U.S.C. § 1813(c);

12 [(2)] (II) a federal credit union or State credit union, as defined in the
13 Federal Credit Union Act at 12 U.S.C. § 1752; or

14 [(3)] (III) a benefit association, insurance company, safe deposit company,
15 money-market mutual fund, or similar entity doing business in the State that holds
16 property or maintains accounts reflecting property belonging to others.

(b) To carry out the purposes of this section, the Administration may request from any financial institution information and assistance to enable the Administration to enforce the liability of a parent to support a child of the parent.

20 (c) (1) The Administration may request not more than four times a year
21 from a financial institution the information set forth in subsection (d)(2) of this
22 section concerning any obligor in arrears in paying child support through a support
23 enforcement agency.

24 (2) A request for information by the Administration under paragraph (1)
25 of this subsection shall:

26 (i) contain:

27 1. the full name of the obligor and any other names known to
28 be used by the obligor; and

29 2. the Social Security number or other taxpayer
30 identification number of the obligor; and

31 (ii) be transmitted to the financial institution in an electronic
32 format unless the financial institution specifically asks the Administration to submit
33 the request in writing.

(d) (1) Within 30 days after a financial institution receives a request for information under subsection (c) of this section, the financial institution shall [submit a report to the Administration]:

1 (I) NOTIFY THE ADMINISTRATION THAT THE FINANCIAL
2 INSTITUTION SUBMITS REPORTS INDIRECTLY THROUGH THE FEDERAL PARENT
3 LOCATOR SERVICE UNDER 42 U.S.C. § 666(A)(17); OR

4 (II) WITH RESPECT TO EACH OBLIGOR WHOSE NAME THE
5 ADMINISTRATION SUBMITTED TO THE FINANCIAL INSTITUTION AND WHO
6 MAINTAINS AN ACCOUNT WITH THE FINANCIAL INSTITUTION, SUBMIT A REPORT TO
7 THE ADMINISTRATION.

8 (2) The report [, with respect to each obligor whose name was submitted
9 to the financial institution and who maintains an account with the financial
10 institution, shall contain] DESCRIBED IN PARAGRAPH (1)(II) OF THIS SUBSECTION
11 SHALL CONTAIN, TO THE EXTENT REFLECTED IN THE RECORDS OF THE FINANCIAL
12 INSTITUTION:

13 (i) the full name of the obligor;

14 (ii) the address of the obligor;

15 (iii) the Social Security or other taxpayer identification number of
16 the obligor;

17 (iv) any other identifying information needed to assure positive
18 identification of the obligor; and

19 (v) FOR EACH ACCOUNT OF THE OBLIGOR, the obligor's account
20 number and balance.

21 (3) [The report required under paragraph (2)] A REPORT SUBMITTED
22 UNDER PARAGRAPH (1)(II) of this subsection shall be provided to the Administration
23 in machine readable form.

24 (4) The Administration shall pay the financial institution a reasonable
25 fee, not to exceed the actual costs incurred by the financial institution to comply with
26 the requirements of this [subsection] SECTION AND § 10-108.3 OF THIS SUBTITLE
27 INCLUDING COSTS FOR:

28 (I) COMPILING AND PROVIDING REPORTS TO THE
29 ADMINISTRATION;

30 (II) COMPILING AND PROVIDING REPORTS THROUGH THE FEDERAL
31 PARENT LOCATOR SERVICE, BUT IN SUCH A CASE THE ACTUAL COSTS OF THE
32 FINANCIAL INSTITUTION SHALL BE BASED ON A PERCENTAGE OF THE FINANCIAL
33 INSTITUTION'S TOTAL ACTUAL COST, WHICH PERCENTAGE SHALL BE DETERMINED
34 BY DIVIDING THE TOTAL NUMBER OF ACCOUNTS MAINTAINED BY THE FINANCIAL
35 INSTITUTION IN MARYLAND BY THE TOTAL NUMBER OF ACCOUNTS MAINTAINED BY
36 THE FINANCIAL INSTITUTION FOR ALL JURISDICTIONS INCLUDED IN THE REPORT;
37 AND

1 (III) NECESSARY UPGRADES TO EXISTING COMPUTER, SOFTWARE,
2 OR OTHER DATA COMPILATION SYSTEMS THAT ARE DIRECTLY RELATED TO
3 COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION AND § 10-108.3 OF THIS
4 SUBTITLE.

5 (5) The Administration may institute civil proceedings to enforce this
6 section.

7 (e) A financial institution that complies with a request from the
8 Administration [made under this section] BY NOTIFYING THE ADMINISTRATION OR
9 SUBMITTING A REPORT TO THE ADMINISTRATION IN ACCORDANCE WITH
10 SUBSECTION (D) OF THIS SECTION is not liable under State law to any person for any:

11 (1) disclosure of information to the Administration under this section; or

12 (2) other action taken in good faith to comply with the requirements of
13 this section.

14 10-108.3.

15 (A) IF AN OBLIGOR IDENTIFIED IN A REPORT SUBMITTED UNDER SECTION
16 10-108.2 OF THIS SUBTITLE OR IN A REPORT MADE TO THE FEDERAL PARENT
17 LOCATOR SERVICE UNDER 42 U.S.C. § 666(A)(17) IS \$500 OR MORE IN ARREARS OF A
18 CHILD SUPPORT OBLIGATION, THE ADMINISTRATION MAY INSTITUTE AN ACTION TO
19 ATTACH AND SEIZE THE AMOUNT OF THE ARREARAGE IN ONE OR MORE OF THE
20 ACCOUNTS OF THE OBLIGOR WITH A FINANCIAL INSTITUTION TO SATISFY THE
21 AMOUNT OF ARREARAGE OWED BY THE OBLIGOR.

22 (B) (1) IF THE ADMINISTRATION INSTITUTES AN ACTION AGAINST AN
23 OBLIGOR UNDER SUBSECTION (A) OF THIS SECTION, THE ADMINISTRATION SHALL
24 SEND A NOTICE TO THE FINANCIAL INSTITUTION IN WHICH ONE OR MORE OF THE
25 OBLIGOR'S ACCOUNTS ARE LOCATED, BY CERTIFIED MAIL, RETURN RECEIPT
26 REQUESTED AT THE ADDRESS DESIGNATED FOR THIS PURPOSE BY THE FINANCIAL
27 INSTITUTION OR, IF NO ADDRESS HAS BEEN DESIGNATED, TO THE PRINCIPAL OFFICE
28 OF THE FINANCIAL INSTITUTION.

29 (2) THE NOTICE SHALL CONTAIN THE FOLLOWING INFORMATION, TO
30 THE EXTENT KNOWN BY THE ADMINISTRATION:

31 (I) THE ADDRESS OF THE ADMINISTRATION;

32 (II) THE TELEPHONE NUMBER, ADDRESS, AND NAME OF A
33 CONTACT PERSON AT THE ADMINISTRATION;

34 (III) THE NAME AND SOCIAL SECURITY NUMBER OR OTHER
35 TAXPAYER IDENTIFICATION NUMBER OF THE OBLIGOR;

36 (IV) THE ADDRESS OF THE OBLIGOR;

1 (V) FOR EACH ACCOUNT OF THE OBLIGOR, THE OBLIGOR'S
2 ACCOUNT NUMBER AND KNOWN BALANCE WITH THE FINANCIAL INSTITUTION;

3 (VI) THE AMOUNT OF ARREARAGE THAT THE FINANCIAL
4 INSTITUTION SHALL SEIZE AND ATTACH FROM ONE OR MORE OF THE ACCOUNTS OF
5 THE OBLIGOR; AND

6 (VII) A STATEMENT INSTRUCTING THE FINANCIAL INSTITUTION TO
7 IMMEDIATELY ATTACH AND SEIZE THE AMOUNT OF ARREARAGE STATED IN ITEM (VI)
8 OF THIS PARAGRAPH FROM ONE OR MORE OF THE ACCOUNTS OF THE OBLIGOR AND,
9 UPON SUBSEQUENT NOTICE BY THE ADMINISTRATION, TO FORWARD THE AMOUNT
10 TO THE ADMINISTRATION.

11 (C) (1) ON RECEIPT OF THE NOTICE UNDER SUBSECTION (B) OF THIS
12 SECTION, THE FINANCIAL INSTITUTION SHALL PROMPTLY SEIZE AND ATTACH FROM
13 ONE OR MORE OF THE ACCOUNTS IDENTIFIED IN THE ADMINISTRATION'S NOTICE TO
14 THE FINANCIAL INSTITUTION AN AGGREGATE AMOUNT EQUAL TO THE LESSER OF
15 THE AMOUNTS IN ALL ACCOUNTS OR THE AMOUNT STATED IN THE NOTICE.

16 (2) AN ACCOUNT IDENTIFIED IN THE ADMINISTRATION'S NOTICE TO
17 THE FINANCIAL INSTITUTION SHALL BE HELD AS REQUIRED IN PARAGRAPH (1) OF
18 THIS SUBSECTION REGARDLESS OF WHETHER THE OBLIGOR MAINTAINS THE
19 ACCOUNT ALONE OR WITH ANOTHER PERSON OR PERSONS WHO ARE NOT OBLIGORS,
20 INCLUDING A SPOUSE OF THE OBLIGOR.

21 (3) (I) NOT LATER THAN 30 DAYS AFTER THE FINANCIAL INSTITUTION
22 RECEIVES THE NOTICE DIRECTING IT TO SEIZE AND ATTACH ACCOUNTS OF THE
23 OBLIGOR, THE FINANCIAL INSTITUTION SHALL SEND NOTICE TO THE
24 ADMINISTRATION BY REGULAR MAIL SPECIFYING THE AGGREGATE AMOUNT HELD
25 UNDER THIS SUBSECTION.

26 (II) IF AN ACCOUNT THAT HAS BEEN SEIZED AND ATTACHED IS
27 MAINTAINED BY THE OBLIGOR WITH ONE OR MORE ACCOUNT HOLDERS OF
28 INTEREST AS REFLECTED ON THE RECORDS OF THE FINANCIAL INSTITUTION, THE
29 FINANCIAL INSTITUTION'S NOTICE TO THE ADMINISTRATION SHALL STATE THAT
30 FACT AND SHALL PROVIDE, TO THE EXTENT REFLECTED IN THE FINANCIAL
31 INSTITUTION'S RECORDS, THE NAME AND ADDRESS OF THE OTHER PERSON OR
32 PERSONS.

33 (4) (I) THE FINANCIAL INSTITUTION MAY ASSESS A FEE AGAINST THE
34 ACCOUNTS OR THE OBLIGOR, IN ADDITION TO THE AMOUNT IDENTIFIED IN THE
35 NOTICE UNDER SUBSECTION (B) OF THIS SECTION.

36 (II) IN THE CASE OF INSUFFICIENT FUNDS TO COVER BOTH THE
37 FEE AND THE AMOUNT IDENTIFIED IN THE NOTICE UNDER SUBSECTION (B) OF THIS
38 SECTION, THE FINANCIAL INSTITUTION MAY FIRST DEDUCT AND RETAIN THE FEE
39 FROM THE AMOUNT SEIZED AND ATTACHED AS PROVIDED IN THIS SECTION.

40 (5) THE FINANCIAL INSTITUTION MAY NOT BE HELD LIABLE TO ANY
41 PERSON, INCLUDING THE ADMINISTRATION, THE OBLIGOR, OR ANY PERSON NAMED

1 ON THE ACCOUNT, FOR WRONGFUL DISHONOR OR FOR ANY OTHER CLAIM RELATING
2 TO THE SEIZURE AND ATTACHMENT OF THE ACCOUNT OR OTHER ACTIONS TAKEN IN
3 COMPLIANCE WITH THIS SECTION.

4 (D) (1) WITHIN 2 DAYS AFTER THE ADMINISTRATION HAS RECEIVED THE
5 RETURN RECEIPT FROM THE NOTICE SENT TO THE FINANCIAL INSTITUTION UNDER
6 SUBSECTION (B) OF THIS SECTION, THE ADMINISTRATION SHALL PROMPTLY SEND A
7 NOTICE TO THE OBLIGOR, BY REGULAR MAIL, TO THE OBLIGOR'S LAST KNOWN
8 ADDRESS, OR IF THE HOME ADDRESS IS NOT KNOWN, TO THE PLACE OF LAST KNOWN
9 EMPLOYMENT.

10 (2) THE NOTICE SHALL CONTAIN THE FOLLOWING INFORMATION, TO
11 THE EXTENT KNOWN BY THE ADMINISTRATION:

12 (I) THE ADDRESS OF THE ADMINISTRATION;

13 (II) THE TELEPHONE NUMBER, ADDRESS, AND NAME OF A
14 CONTACT PERSON AT THE ADMINISTRATION;

15 (III) THE NAME AND SOCIAL SECURITY NUMBER OR OTHER
16 TAXPAYER IDENTIFICATION NUMBER OF THE OBLIGOR;

17 (IV) THE ADDRESS OF THE OBLIGOR;

18 (V) FOR EACH ACCOUNT OF THE OBLIGOR, THE OBLIGOR'S
19 ACCOUNT NUMBER AND KNOWN BALANCES WITH THE FINANCIAL INSTITUTION;

20 (VI) THE TOTAL AMOUNT OF THE ARREARAGE OWED BY THE
21 OBLIGOR;

22 (VII) THE DATE THE NOTICE IS BEING SENT;

23 (VIII) A STATEMENT INFORMING THE OBLIGOR THAT THE
24 ADMINISTRATION HAS DIRECTED THE FINANCIAL INSTITUTION TO SEIZE AND
25 ATTACH THE AMOUNT OF THE ARREARAGE OWED BY THE OBLIGOR FROM ONE OR
26 MORE OF THE ACCOUNTS OF THE OBLIGOR AND, UPON SUBSEQUENT NOTICE BY THE
27 ADMINISTRATION, TO FORWARD THE AMOUNT TO THE ADMINISTRATION; AND

28 (IX) A STATEMENT INFORMING THE OBLIGOR THAT, UNLESS A
29 TIMELY CHALLENGE IS MADE TO THE ADMINISTRATION BY THE OBLIGOR OR AN
30 ACCOUNT HOLDER OF INTEREST UNDER SUBSECTION (G) OF THIS SECTION, THE
31 ADMINISTRATION SHALL NOTIFY THE FINANCIAL INSTITUTION TO FORWARD THE
32 AMOUNT SEIZED AND ATTACHED BY THE FINANCIAL INSTITUTION TO THE
33 ADMINISTRATION.

34 (E) (1) WITHIN 2 DAYS AFTER RECEIPT OF INFORMATION FROM THE
35 FINANCIAL INSTITUTION UNDER SUBSECTION (C) OF THIS SECTION, THE
36 ADMINISTRATION SHALL PROMPTLY SEND A NOTICE TO ANY KNOWN ACCOUNT
37 HOLDER OF INTEREST, BY REGULAR MAIL, TO THE ADDRESS PROVIDED BY THE
38 FINANCIAL INSTITUTION UNDER SUBSECTION (C) OF THIS SECTION.

1 (2) THE NOTICE SHALL CONTAIN THE FOLLOWING INFORMATION, TO
2 THE EXTENT KNOWN BY THE ADMINISTRATION:

3 (I) THE ADDRESS OF THE ADMINISTRATION;

4 (II) THE TELEPHONE NUMBER, ADDRESS, AND NAME OF A
5 CONTACT PERSON AT THE ADMINISTRATION;

6 (III) THE NAME AND SOCIAL SECURITY NUMBER OR OTHER
7 TAXPAYER IDENTIFICATION NUMBER OF THE OBLIGOR;

8 (IV) THE ADDRESS OF THE OBLIGOR;

9 (V) FOR EACH ACCOUNT OF THE OBLIGOR, THE OBLIGOR'S
10 ACCOUNT NUMBER WITH THE FINANCIAL INSTITUTION;

11 (VI) THE DATE THE NOTICE IS BEING SENT;

12 (VII) A STATEMENT INFORMING THE ACCOUNT HOLDER OF
13 INTEREST THAT THE ADMINISTRATION HAS DIRECTED THE FINANCIAL INSTITUTION
14 TO SEIZE AND ATTACH THE AMOUNT OF THE ARREARAGE OWED BY THE OBLIGOR
15 FROM ONE OR MORE OF THE ACCOUNTS OF THE OBLIGOR AND, UPON SUBSEQUENT
16 NOTICE BY THE ADMINISTRATION, TO FORWARD THE AMOUNT TO THE
17 ADMINISTRATION; AND

18 (VIII) A STATEMENT INFORMING THE ACCOUNT HOLDER OF
19 INTEREST THAT, UNLESS A TIMELY CHALLENGE IS MADE TO THE ADMINISTRATION
20 BY THE OBLIGOR OR AN ACCOUNT HOLDER OF INTEREST UNDER SUBSECTION (G) OF
21 THIS SECTION, THE ADMINISTRATION SHALL NOTIFY THE FINANCIAL INSTITUTION
22 TO FORWARD THE AMOUNT SEIZED AND ATTACHED BY THE FINANCIAL INSTITUTION
23 TO THE ADMINISTRATION.

24 (F) IF A TIMELY CHALLENGE IS NOT MADE BY THE OBLIGOR OR AN ACCOUNT
25 HOLDER OF INTEREST UNDER SUBSECTION (G) OF THIS SECTION, THE
26 ADMINISTRATION SHALL SEND A NOTICE TO THE FINANCIAL INSTITUTION, IN THE
27 MANNER SPECIFIED IN SUBSECTION (B) OF THIS SECTION, DIRECTING THE
28 INSTITUTION TO FORWARD THE AMOUNT SEIZED AND ATTACHED BY THE FINANCIAL
29 INSTITUTION TO THE ADMINISTRATION.

30 (G) (1) AN OBLIGOR OR AN ACCOUNT HOLDER OF INTEREST MAY
31 CHALLENGE THE ACTIONS OF THE ADMINISTRATION UNDER THIS SECTION.

32 (2) A CHALLENGE UNDER THIS SUBSECTION SHALL:

33 (I) BE IN WRITING;

34 (II) BE RECEIVED BY THE ADMINISTRATION WITHIN 30 DAYS FROM
35 THE DATE OF THE NOTICE UNDER SUBSECTION (D) OF THIS SECTION OR, IF THERE IS
36 AN ACCOUNT HOLDER OF INTEREST OTHER THAN THE OBLIGOR, WITHIN 30 DAYS
37 AFTER THE DATE OF THE NOTICE UNDER SUBSECTION (E) OF THIS SECTION;

1 (III) BE SENT TO THE CONTACT PERSON IDENTIFIED IN THE NOTICE
2 SENT TO THE OBLIGOR UNDER SUBSECTION (D) OF THIS SECTION OR THE NOTICE
3 SENT TO AN ACCOUNT HOLDER OF INTEREST UNDER SUBSECTION (E) OF THIS
4 SECTION; AND

5 (IV) SPECIFY, IN DETAIL, THE REASONS FOR THE CHALLENGE.

6 (3) AN OBLIGOR OR ACCOUNT HOLDER OF INTEREST MAY NOT
7 CHALLENGE THE ACTIONS OF THE ADMINISTRATION ON ISSUES RELATED TO
8 VISITATION, CUSTODY, OR OTHER MATTERS NOT RELATED TO AN ACCOUNT.

9 (H) (1) UPON RECEIPT OF A CHALLENGE UNDER SUBSECTION (G) OF THIS
10 SECTION, THE ADMINISTRATION SHALL REVIEW THE CHALLENGE IN ACCORDANCE
11 WITH THIS SUBSECTION.

12 (2) (I) THE ADMINISTRATION SHALL RELEASE OR REDUCE THE
13 AMOUNT SEIZED AND ATTACHED BY THE FINANCIAL INSTITUTION FOR A MISTAKE
14 OF FACT, INCLUDING:

- 15 1. A MISTAKE IN THE IDENTITY OF THE OBLIGOR;
- 16 2. A MISTAKE IN THE OWNERSHIP OF AN ACCOUNT;
- 17 3. A MISTAKE IN THE CONTENTS OF AN ACCOUNT; OR
- 18 4. A MISTAKE IN THE AMOUNT OF ARREARAGE DUE.

19 (II) IF AN ACCOUNT SEIZED AND ATTACHED BY THE FINANCIAL
20 INSTITUTION IS A JOINT ACCOUNT, THERE IS A PRESUMPTION THAT THE CONTENTS
21 BELONG TO THE OBLIGOR UNLESS REBUTTED BY CLEAR AND CONVINCING
22 EVIDENCE.

23 (3) THE ADMINISTRATION SHALL SEND A NOTICE TO THE FINANCIAL
24 INSTITUTION, IN THE MANNER SPECIFIED IN SUBSECTION (B) OF THIS SECTION,
25 DIRECTING THE FINANCIAL INSTITUTION TO RELEASE THE AMOUNT SEIZED AND
26 ATTACHED BY THE FINANCIAL INSTITUTION IF THE ADMINISTRATION DETERMINES
27 THAT A MISTAKE OF FACT HAS OCCURRED.

28 (4) THE ADMINISTRATION SHALL SEND A NOTICE TO THE FINANCIAL
29 INSTITUTION, IN THE MANNER SPECIFIED IN SUBSECTION (B) OF THIS SECTION,
30 DIRECTING THE FINANCIAL INSTITUTION TO REDUCE THE AMOUNT SEIZED AND
31 ATTACHED TO THE REVISED AMOUNT STATED AND TO RELEASE THE EXCESS
32 AMOUNT IF THE ADMINISTRATION DETERMINES THAT:

33 (I) THE AMOUNT OWED BY THE OBLIGOR IS LESS THAN THE
34 AMOUNT ORIGINALLY INDICATED ON THE NOTICE UNDER SUBSECTION (B) OF THIS
35 SECTION; OR

36 (II) THE OBLIGOR DOES NOT HAVE AN OWNERSHIP INTEREST IN
37 ONE OR MORE OF THE ACCOUNTS SEIZED AND ATTACHED OR A PORTION THEREOF.

1 (I) (1) THE ADMINISTRATION SHALL SEND BY REGULAR MAIL A NOTICE OF
2 ITS FINDINGS, INCLUDING A FINDING OF NO MISTAKE OF FACT, TO THE OBLIGOR
3 AND ANY OTHER CHALLENGING PARTY.

4 (2) THE NOTICE SHALL INFORM THE OBLIGOR OR THE CHALLENGING
5 PARTY OF THE RIGHT TO APPEAL THE DECISION OF THE ADMINISTRATION TO THE
6 OFFICE OF ADMINISTRATIVE HEARINGS.

7 (J) IF NO TIMELY APPEAL IS FILED, THE ADMINISTRATION SHALL SEND A
8 NOTICE TO THE FINANCIAL INSTITUTION, IN THE MANNER SPECIFIED IN
9 SUBSECTION (B) OF THIS SECTION, DIRECTING THE FINANCIAL INSTITUTION TO
10 FORWARD THE AMOUNT SPECIFIED IN THE NOTICE, INCLUDING ANY REVISED
11 AMOUNT UNDER SUBSECTION (H)(4) OF THIS SECTION, TO THE ADMINISTRATION.

12 (K) (1) AN APPEAL UNDER SUBSECTION (I) OF THIS SECTION SHALL BE
13 CONDUCTED IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE
14 GOVERNMENT ARTICLE.

15 (2) A REQUEST FOR APPEAL UNDER SUBSECTION (I) OF THIS SECTION
16 SHALL BE:

17 (I) IN WRITING; AND

18 (II) RECEIVED BY THE OFFICE OF ADMINISTRATIVE HEARINGS
19 WITHIN 30 DAYS AFTER THE NOTICE IS SENT TO THE OBLIGOR OR OTHER
20 CHALLENGING PARTY UNDER SUBSECTION (I) OF THIS SECTION.

21 (L) AFTER THE COMPLETION OF AN APPEAL UNDER SUBSECTION (I) OF THIS
22 SECTION, THE ADMINISTRATION SHALL:

23 (1) SEND A NOTICE TO THE FINANCIAL INSTITUTION, IN THE MANNER
24 SPECIFIED IN SUBSECTION (B) OF THIS SECTION, DIRECTING THE FINANCIAL
25 INSTITUTION TO RELEASE THE AMOUNT SEIZED AND ATTACHED BY THE FINANCIAL
26 INSTITUTION IF THE OFFICE OF ADMINISTRATIVE HEARINGS FINDS THAT:

27 (I) THERE IS A MISTAKE OF IDENTITY;

28 (II) THE OBLIGOR DOES NOT HAVE AN OWNERSHIP INTEREST IN
29 THE CONTENTS OF ANY ACCOUNT HELD; OR

30 (III) THAT THERE IS NO ARREARAGE;

31 (2) SEND A NOTICE TO THE FINANCIAL INSTITUTION, IN THE MANNER
32 SPECIFIED IN SUBSECTION (B) OF THIS SECTION, DIRECTING THE FINANCIAL
33 INSTITUTION TO RELEASE THE ATTACHMENT ON ANY AMOUNT IN EXCESS OF THE
34 REVISED AMOUNT STATED AND THAT THE REVISED AMOUNT STATED BE
35 FORWARDED TO THE ADMINISTRATION IF THE OFFICE OF ADMINISTRATIVE
36 HEARINGS FINDS THAT:

1 (I) THE OBLIGOR IS DELINQUENT, BUT THE AMOUNT OF THE
2 ARREARAGE IS LESS THAN THE AMOUNT INDICATED IN THE NOTICE UNDER
3 SUBSECTION (B) OF THIS SECTION OR IN A SUBSEQUENT NOTICE UNDER
4 SUBSECTION (H)(4) OF THIS SECTION; OR

5 (II) THE OBLIGOR DOES NOT HAVE OWNERSHIP INTEREST IN ONE
6 OR MORE OF THE ACCOUNTS SEIZED AND ATTACHED OR A PORTION OF THE
7 ACCOUNTS; OR

8 (3) SEND A NOTICE TO THE FINANCIAL INSTITUTION, IN THE MANNER
9 SPECIFIED IN SUBSECTION (B) OF THIS SECTION, DIRECTING THE FINANCIAL
10 INSTITUTION TO TRANSFER THE AMOUNTS SEIZED AND ATTACHED TO THE
11 ADMINISTRATION IF THE OFFICE OF ADMINISTRATIVE HEARINGS UPHOLDS THE
12 DETERMINATION OF THE ADMINISTRATION.

13 (M) (1) A CHALLENGING PARTY MAY WITHDRAW A REQUEST FOR
14 CHALLENGE OR APPEAL BY SUBMITTING A NOTICE OF THE WITHDRAWAL TO THE
15 PERSON IDENTIFIED AS THE CONTACT PERSON FOR THE ADMINISTRATION IN THE
16 NOTICE UNDER SUBSECTION (D) OR SUBSECTION (E) OF THIS SECTION, OR TO THE
17 OFFICE OF ADMINISTRATIVE HEARINGS.

18 (2) THE ADMINISTRATION MAY WITHDRAW THE NOTICE TO ATTACH
19 ACCOUNTS BY SENDING NOTICE TO THE FINANCIAL INSTITUTION, IN THE MANNER
20 SPECIFIED IN SUBSECTION (B) OF THIS SECTION, DIRECTING THE FINANCIAL
21 INSTITUTION TO RELEASE THE ATTACHMENT ON THE ACCOUNT.

22 (N) IF A DETERMINATION IS MADE BY THE ADMINISTRATION OR BY THE
23 OFFICE OF ADMINISTRATIVE HEARINGS THAT THE ACCOUNT OR ACCOUNTS OF THE
24 OBLIGOR SHOULD NOT HAVE BEEN HELD, THE ADMINISTRATION SHALL NOTIFY THE
25 FINANCIAL INSTITUTION, IN THE MANNER SPECIFIED IN SUBSECTION (B) OF THIS
26 SECTION, TO RELEASE THE AMOUNT SEIZED AND ATTACHED BY THE FINANCIAL
27 INSTITUTION.

28 (O) A FINANCIAL INSTITUTION THAT COMPLIES WITH A REQUEST OR NOTICE
29 FROM THE ADMINISTRATION MADE UNDER THIS SECTION IS NOT LIABLE UNDER
30 STATE LAW TO ANY PERSON FOR:

31 (1) ANY DISCLOSURE OF INFORMATION TO THE ADMINISTRATION
32 UNDER THIS SECTION;

33 (2) SEIZING AND ATTACHING ANY AMOUNTS FROM AN ACCOUNT,
34 SENDING ANY AMOUNT SEIZED AND ATTACHED BY THE FINANCIAL INSTITUTION TO
35 THE ADMINISTRATION, OR RELEASING ALL OR A PART OF THE AMOUNT SEIZED AND
36 ATTACHED BY THE FINANCIAL INSTITUTION; OR

37 (3) ANY OTHER ACTION TAKEN IN GOOD FAITH TO COMPLY WITH THE
38 REQUIREMENTS OF THIS SECTION.

39 (P) (1) NOTWITHSTANDING ANY OTHER STATUTORY PROVISIONS OR RULES
40 OF COURT THAT PROVIDE FOR THE EXECUTION, ATTACHMENT, GARNISHMENT, OR

1 LEVY AGAINST AN ACCOUNT, AND SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,
2 THE ADMINISTRATION MAY UTILIZE THE PROCEDURES ESTABLISHED IN THIS
3 SECTION EXCLUSIVELY TO COLLECT DELINQUENT CHILD SUPPORT.

4 (2) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT THE
5 ADMINISTRATION FROM COLLECTING DELINQUENT CHILD SUPPORT IN ANY OTHER
6 MANNER AUTHORIZED BY LAW.

7 **Article - Financial Institutions**

8 1-302.

9 Except as otherwise expressly provided in this subtitle, a fiduciary institution,
10 its officers, employees, agents, and directors:

11 (1) May not disclose to any person any financial record relating to a
12 customer of the institution unless:

13 (i) The customer has authorized the disclosure to that person;

14 (ii) Proceedings have been instituted for appointment of a guardian
15 of the property or of the person of the customer, and court-appointed counsel presents
16 to the fiduciary institution an order of appointment or a certified copy of the order
17 issued by or under the direction or supervision of the court or an officer of the court;

18 (iii) The customer is disabled and a guardian is appointed or
19 qualified by a court, and the guardian presents to the fiduciary institution an order of
20 appointment or a certified copy of the order issued by or under the direction or
21 supervision of the court or an officer of the court;

22 (iv) The customer is deceased and a personal representative is
23 appointed or qualified by a court, and the personal representative presents to the
24 fiduciary institution letters of administration issued by or under the direction or
25 supervision of the court or an officer of the court;

26 (v) The Department of Human Resources requests the financial
27 record in the course of verifying the individual's eligibility for public assistance; or

28 (vi) The institution received a [request or subpoena] REQUEST,
29 NOTICE, OR SUBPOENA for information directly from the Child Support Enforcement
30 Administration of the Department of Human Resources under [§ 10-108.2 or §
31 10-108.4] § 10-108.2, § 10-108.3, OR § 10-108.5 of the Family Law Article or indirectly
32 through the Federal Parent Locator Service under 42 U.S.C. § 666(a)(17); and

33 (2) Shall disclose any information requested in writing by the
34 Department of Human Resources relative to moneys held in a savings deposit, time
35 deposit, demand deposit, or any other deposit held by the fiduciary institution in the
36 name of the individual who is a recipient or applicant for public assistance.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2001.