

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE
Revised

House Bill 1070 (Delegate Montague, *et al.*)

Judiciary

Judicial Proceedings

Family Law - Child and Spousal Support - Earnings Withholding

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

Fiscal Summary

State Effect: Special fund revenues would increase to the extent that the bill facilitates the collection of child support. Potential efficiency savings for the Child Support Enforcement Administration (CSEA). No effect on expenditures, as the bill's changes could be handled by the Administrative Office of the Courts within existing budgeted resources.

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. If there is more than one earnings withholding order or earnings withholding notice against a single obligor, CSEA must allocate amounts available for withholding giving priority to current support, up to the limits imposed by the Federal Consumer Credit Protection Act (FCCPA).

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 notice at a court hearing. The CSEA must notify an obligor of the obligor’s right to file a motion for a stay of the notice or request an investigation to contest the accuracy of information contained in an earnings withholding notice. If the obligor requests an investigation, the CSEA must conduct an investigation within 15 days after the obligor’s request. An obligor may appeal the decision of the CSEA to the Office of Administrative Hearings (OAH).

Termination of Earnings Withholding Order

The bill eliminates the authority of the court to terminate an earnings withholding order 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 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.

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 any arrearage apportioned to each payment under an earnings withholding order shall be at least 10%, but not more than 25%, of the current support payment. The law sets no maximum limit on how much can be collected from a single obligor who is subject to multiple withholding orders.

Background: The CSEA advises 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.

State Fiscal Effect: Special fund revenues could increase to the extent that the provisions of this bill increase child support collections. Temporary cash assistance (TCA) recipients must assign their support rights to the State and federal government as partial reimbursement for TCA payments made on behalf of the children of the obligor; as a result, TCA child support collections are distributed 50% to the State and 50% to the federal government. Any such increase cannot be quantified at this time due to the unavailability of data.

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.

The Department of Human Resources advises that if this bill is not enacted, the federal government could assess a 4% penalty against the total amount of the federal share (66%) of child support enforcement program costs. The federal share of child support enforcement program costs represents \$55 million in the proposed fiscal 2002 budget.

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

Additional Information

Prior Introductions: This bill was introduced during the 2000 session as HB 1163, and received an unfavorable report by the House Judiciary Committee.

Cross File: None.

Information Source(s): Department of Human Resources, Department of Health and Mental Hygiene (Community and Public Health Administration), Office of Administrative Hearings, Department of Legislative Services

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