

SENATE BILL 758

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2002 Regular Session
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By: **Senators McFadden, Conway, Della, Jimeno, Pinsky, Ruben, and Teitelbaum**

Introduced and read first time: February 1, 2002

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Human Resources - Child Support Enforcement**
3 **Administration - Demonstration Program**

4 FOR the purpose of requiring the Secretary of Human Resources to establish a child
5 support enforcement demonstration program to increase the effectiveness of the
6 Child Support Enforcement Administration; providing that certain employees of
7 the Administration are participants in the demonstration program; authorizing
8 the Secretary to appoint a director of the demonstration program in each
9 jurisdiction; requiring the director of the demonstration program to report to the
10 Executive Director of the Administration; providing that the Secretary shall
11 have sole authority over certain function of the program; authorizing the
12 Secretary to sever certain contractual agreements and hire certain counsel;
13 making certain provisions relating to the status of employees hired after the
14 implementation of a demonstration program and positions held prior to the
15 implementation of the demonstration program; requiring the Secretary to
16 establish a certain incentive program for employees in the demonstration
17 program; authorizing a certain conciliation conference to be conducted through a
18 demonstration program; authorizing the court to issue a certain writ of
19 summons if a certain complaint is filed; authorizing a representative of the
20 demonstration program to apply for a body attachment under certain
21 circumstances; authorizing the court to take certain actions to enforce a certain
22 order; providing that certain powers of the Secretary are to be construed
23 liberally; defining certain terms; making this Act subject to a certain
24 contingency; providing for a delayed effective date; and generally relating to the
25 Child Support Enforcement Administration of the Department of Human
26 Resources and demonstration programs.

27 BY repealing and reenacting, without amendments,
28 Article - Family Law
29 Section 10-119.1 and 10-119.2
30 Annotated Code of Maryland
31 (1999 Replacement Volume and 2001 Supplement)

32 BY adding to

1 Article - Family Law
2 Section 10-119.4
3 Annotated Code of Maryland
4 (1999 Replacement Volume and 2001 Supplement)

5 Preamble

6 WHEREAS, Chapter 491 of the Acts of the General Assembly of 1995 created a
7 competition between the public and private sectors in order to compare the relative
8 effectiveness of child support enforcement services operated by each sector; and

9 WHEREAS, The State-run demonstration sites have illustrated significant
10 success in improving and enhancing child support services; and

11 WHEREAS, The experience with privatization in Baltimore City has not
12 indicated that the private companies could perform better than the public sector; and

13 WHEREAS, The provision of the highest quality services to families is a priority
14 for the State of Maryland; now, therefore,

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

17 **Article - Family Law**

18 10-119.1.

19 (a) In this section, "conciliation conference" means a conference conducted at a
20 site designated by the Pilot Program established under subsection (b) of this section
21 to provide an opportunity for the parties to resolve issues associated with an action to
22 modify or enforce a duty of support prior to going to a court proceeding.

23 (b) (1) Notwithstanding § 13-405 of the State Personnel and Pensions
24 Article, there is a Child Support Enforcement Privatization Pilot Program within the
25 Department.

26 (2) The Pilot Program shall operate in Baltimore City and Queen Anne's
27 County.

28 (c) The purpose of the Pilot Program is to authorize the Secretary of the
29 Department to enter into contracts with private companies to privatize all aspects of
30 child support enforcement functions of the Department, including:

- 31 (1) locating absent parents;
- 32 (2) establishing paternities;
- 33 (3) establishing support orders;
- 34 (4) collecting and disbursing support payments;

1 (5) reviewing and modifying child support orders; and

2 (6) except for legal representation in accordance with § 10-115 of the
3 Family Law Article and as otherwise provided by law, enforcing support obligations.

4 (d) Subject to subsection (h) of this section, the Secretary shall:

5 (1) adopt regulations that:

6 (i) require the transfer of all aspects of child support enforcement
7 to one or more private contractors by November 1, 1996;

8 (ii) provide for the reimbursement of any private contractor;

9 (iii) prohibit the cost of transferring child support enforcement to
10 private contractors as defined in item (ii) of this paragraph from exceeding the fiscal
11 year 1995 administrative cost per child support dollar collected by the Child Support
12 Enforcement Administration in the Pilot Program areas;

13 (iv) require any private contractor to offer employment upon terms
14 deemed by the Secretary to be fair and equitable to any former State employees
15 working for an existing contractor who are affected by the transfer of child support
16 enforcement responsibilities under this section and to retain any employees who
17 accept the offer:

18 1. for the duration of the Pilot Program unless there is cause
19 for dismissal; and

20 2. at a salary and benefit level comparable to the salary and
21 benefits to which they were entitled at the time of the transfer;

22 (v) require any private contractor to adopt a grievance procedure
23 for employees who are retained by the private contractor under item (iv) of this item;
24 and

25 (vi) prohibit the reimbursement of any private contractor from child
26 support collections; and

27 (2) assist an employee who declines an offer of employment with a
28 private contractor to identify a comparable position in the State Personnel
29 Management System to which the employee may transfer.

30 (e) A request for proposal to transfer child support collection activities issued
31 under this section shall:

32 (1) comply with the provisions of Division II of the State Finance and
33 Procurement Article;

34 (2) set forth the goals of the privatization; and

35 (3) specify the incentives which will be available to the contractor.

1 (f) (1) On or before October 1, 1996, and annually thereafter, the Secretary
2 shall report to the Governor and, subject to § 2-1246 of the State Government Article,
3 the General Assembly on the operation and performance of the Pilot Program.

4 (2) The report shall assess the Pilot Program for its effectiveness and
5 success in enhancing child support collection through the privatization of child
6 support enforcement in Baltimore City and Queen Anne's County in the State.

7 (3) The Secretary shall include in the report the plans for improving the
8 effectiveness and success of the Pilot Program in achieving the objective.

9 (g) The Secretary shall adopt any other regulations necessary to carry out the
10 provisions of this section.

11 (h) A former State employee who declines an offer of employment with a
12 private contractor under this section shall be considered laid off and shall be entitled
13 to all rights specified under Title 11, Subtitle 2 of the State Personnel and Pensions
14 Article.

15 (i) In accordance with subsection (j) of this section, the Pilot Program may
16 conduct a conciliation conference.

17 (j) (1) If a complaint is filed to modify or enforce a duty of support in the
18 circuit court of a jurisdiction in which the Pilot Program is located, the court may
19 issue a writ of summons to order the parties to appear and to produce documents at a
20 conciliation conference.

21 (2) If a party fails to appear or fails to produce the documents required
22 under this subsection, a representative of the Pilot Program may apply, upon
23 affidavit, to the court for a body attachment.

24 (3) If a party fails or refuses to obey a court order to appear or produce
25 the documents required under this subsection at a conciliation conference, the court
26 may issue a body attachment or compel compliance in any other manner available to
27 the court to enforce its order.

28 10-119.2.

29 (a) (1) In this section the following words have the meanings indicated.

30 (2) "Conciliation conference" means a conference conducted at a
31 demonstration site to provide an opportunity for the parties to resolve issues
32 associated with an action to modify or enforce a duty of support prior to going to a
33 court proceeding.

34 (3) "Demonstration site" means any jurisdiction selected by the
35 Secretary of Human Resources, in consultation with the director of the local
36 department of social services in the jurisdiction, to compete against privatized
37 jurisdictions in providing child support enforcement services.

1 (b) The Secretary shall establish a child support enforcement demonstration
2 site in at least one but not more than six jurisdictions for the purpose of competing
3 against a privatized jurisdiction as established in § 10-119.1 of this subtitle.

4 (c) Notwithstanding any other provision of law, the Secretary shall appoint a
5 director of child support services in a demonstration site who shall report directly to
6 the Executive Director of the Child Support Enforcement Administration of the
7 Department.

8 (d) Notwithstanding any other provision of law, the Secretary shall have sole
9 authority over the child support enforcement functions in a demonstration site,
10 including but not limited to:

- 11 (1) location of parents;
- 12 (2) establishing paternities;
- 13 (3) establishing child support orders;
- 14 (4) collecting and disbursing support payments;
- 15 (5) reviewing and modifying child support orders;
- 16 (6) enforcing support obligations;
- 17 (7) providing legal representation to the Administration; and
- 18 (8) establishing contractual agreements with private or public entities to
19 provide child support services.

20 (e) Notwithstanding any other provision of law and for the purpose of carrying
21 out the provisions of this section, the Secretary shall have the authority to sever
22 contractual agreements with a State's Attorney and hire private counsel to provide
23 legal representation for the Child Support Enforcement Administration.

24 (f) (1) Notwithstanding any other provision of law, all employees hired in a
25 demonstration site after its designation as a demonstration site shall be in the
26 management service or special appointments in the State Personnel Management
27 System.

28 (2) If a position in a demonstration site is held by a classified service
29 employee prior to its designation as a demonstration site, the position remains a
30 classified service position or its equivalent in the State Personnel Management
31 System until the position becomes vacant, at which time the position shall become a
32 management service or special appointment position.

33 (g) The Secretary shall establish a performance incentive program to provide
34 pay incentives for employees in a demonstration site.

35 (h) In accordance with subsection (i) of this section, a demonstration site may
36 conduct a conciliation conference.

1 (i) (1) If a complaint is filed to modify or enforce a duty of support in the
2 circuit court of a jurisdiction in which a demonstration site is located, the court may
3 issue a writ of summons to order the parties to appear and to produce documents at a
4 conciliation conference.

5 (2) If a party fails to appear or fails to produce the documents required
6 under this subsection, a representative of the demonstration site may apply, upon
7 affidavit, to the court for a body attachment.

8 (3) If a party fails or refuses to obey a court order to appear or produce
9 the documents required under this subsection at a conciliation conference, the court
10 may issue a body attachment or compel compliance in any other manner available to
11 the court to enforce its order.

12 (j) The powers of the Secretary to carry out the provisions of this section shall
13 be construed liberally.

14 10-119.4.

15 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (2) "CONCILIATION CONFERENCE" MEANS A CONFERENCE CONDUCTED
18 THROUGH A DEMONSTRATION PROGRAM TO PROVIDE AN OPPORTUNITY FOR THE
19 PARTIES TO RESOLVE ISSUES ASSOCIATED WITH AN ACTION TO MODIFY OR
20 ENFORCE A DUTY OF SUPPORT PRIOR TO GOING TO A COURT PROCEEDING.

21 (3) "DEMONSTRATION PROGRAM" MEANS A PROGRAM INSTITUTED BY
22 THE SECRETARY, IN CONSULTATION WITH THE EXECUTIVE DIRECTOR OF THE
23 ADMINISTRATION AND THE LOCAL DEPARTMENTS OF SOCIAL SERVICES IN EACH
24 JURISDICTION UNDER THE SECRETARY THAT PROVIDES CHILD SUPPORT
25 ENFORCEMENT SERVICES.

26 (4) "SECRETARY" MEANS THE SECRETARY OF HUMAN RESOURCES.

27 (B) THE SECRETARY SHALL ESTABLISH A CHILD SUPPORT ENFORCEMENT
28 DEMONSTRATION PROGRAM TO INCREASE THE EFFECTIVENESS OF THE
29 ADMINISTRATION.

30 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ALL EMPLOYEES OF
31 THE ADMINISTRATION THAT PROVIDE CHILD SUPPORT ENFORCEMENT SERVICES
32 AND ARE UNDER THE JURISDICTION OF THE SECRETARY ARE PARTICIPANTS IN THE
33 DEMONSTRATION PROGRAM.

34 (D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE SECRETARY
35 MAY APPOINT A DIRECTOR OF THE DEMONSTRATION PROGRAM IN EACH
36 JURISDICTION WHO SHALL REPORT DIRECTLY TO THE EXECUTIVE DIRECTOR OF THE
37 ADMINISTRATION.

1 (E) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE SECRETARY
2 SHALL HAVE SOLE AUTHORITY OVER THE CHILD SUPPORT ENFORCEMENT
3 FUNCTIONS OF A DEMONSTRATION PROGRAM, INCLUDING:

- 4 (1) LOCATION OF PARENTS;
- 5 (2) ESTABLISHING PATERNITIES;
- 6 (3) ESTABLISHING CHILD SUPPORT ORDERS;
- 7 (4) COLLECTING AND DISBURSING SUPPORT PAYMENTS;
- 8 (5) REVIEWING AND MODIFYING CHILD SUPPORT ORDERS;
- 9 (6) ENFORCING SUPPORT OBLIGATIONS;
- 10 (7) PROVIDING LEGAL REPRESENTATION TO THE ADMINISTRATION;
- 11 AND
- 12 (8) ESTABLISHING CONTRACTUAL AGREEMENTS WITH PRIVATE OR
13 PUBLIC ENTITIES TO PROVIDE CHILD SUPPORT SERVICES.

14 (F) NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND FOR THE
15 PURPOSE OF CARRYING OUT THE PROVISIONS OF THIS SECTION, THE SECRETARY
16 SHALL HAVE THE AUTHORITY TO SEVER CONTRACTUAL AGREEMENTS WITH A
17 STATE'S ATTORNEY AND HIRE PRIVATE COUNSEL TO PROVIDE LEGAL
18 REPRESENTATION FOR THE ADMINISTRATION.

19 (G) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ALL
20 EMPLOYEES HIRED AFTER THE IMPLEMENTATION OF A DEMONSTRATION PROGRAM
21 SHALL BE EITHER:

- 22 (I) IN THE MANAGEMENT SERVICE; OR
- 23 (II) SPECIAL APPOINTMENTS IN THE STATE PERSONNEL
24 MANAGEMENT SYSTEM FOR A PERIOD OF 6 MONTHS AND THEN IN THE
25 PROFESSIONAL OR SKILLED SERVICE.

26 (2) IF A POSITION IN THE ADMINISTRATION IS HELD BY A CLASSIFIED
27 SERVICE EMPLOYEE PRIOR TO THE IMPLEMENTATION OF THE DEMONSTRATION
28 PROGRAM, THE POSITION REMAINS A CLASSIFIED SERVICE POSITION OR ITS
29 EQUIVALENT IN THE STATE PERSONNEL MANAGEMENT SYSTEM UNTIL THE
30 POSITION BECOMES VACANT, AT WHICH TIME THE POSITION SHALL BECOME
31 EITHER:

- 32 (I) A MANAGEMENT SERVICE POSITION; OR
- 33 (II) A SPECIAL APPOINTMENT POSITION FOR A PERIOD OF 6
34 MONTHS AND THEN A PROFESSIONAL OR SKILLED SERVICE POSITION.

1 (H) THE SECRETARY SHALL ESTABLISH A PERFORMANCE INCENTIVE
2 PROGRAM TO PROVIDE PAY INCENTIVES FOR EMPLOYEES IN A DEMONSTRATION
3 PROGRAM.

4 (I) IN ACCORDANCE WITH SUBSECTION (J) OF THIS SECTION, A
5 CONCILIATION CONFERENCE MAY BE CONDUCTED THROUGH A DEMONSTRATION
6 PROGRAM.

7 (J) (1) IF A COMPLAINT IS FILED TO MODIFY OR ENFORCE A DUTY OF
8 SUPPORT IN THE CIRCUIT COURT, THE COURT MAY ISSUE A WRIT OF SUMMONS TO
9 ORDER THE PARTIES TO APPEAR AND TO PRODUCE DOCUMENTS AT A CONCILIATION
10 CONFERENCE.

11 (2) IF A PARTY FAILS TO APPEAR OR FAILS TO PRODUCE THE
12 DOCUMENTS REQUIRED UNDER THIS SUBSECTION, A REPRESENTATIVE OF THE
13 DEMONSTRATION PROGRAM MAY APPLY, UPON AFFIDAVIT, TO THE COURT FOR A
14 BODY ATTACHMENT.

15 (3) IF A PARTY FAILS OR REFUSES TO OBEY A COURT ORDER TO APPEAR
16 OR PRODUCE THE DOCUMENTS REQUIRED UNDER THIS SUBSECTION AT A
17 CONCILIATION CONFERENCE, THE COURT MAY ISSUE A BODY ATTACHMENT OR
18 COMPEL COMPLIANCE IN ANY OTHER MANNER AVAILABLE TO THE COURT TO
19 ENFORCE ITS ORDER.

20 (K) THE POWERS OF THE SECRETARY TO CARRY OUT THE PROVISIONS OF
21 THIS SECTION SHALL BE CONSTRUED LIBERALLY.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
23 effect on the taking effect of the termination provision specified in Section 14 of
24 Chapter 491 of 1995, as amended by Chapter 486 of 1999. If that termination
25 provision does not abrogate §§ 10-119.1 and 10-119.2 of the Family Law Article of the
26 Annotated Code of Maryland as of October 31, 2002, Section 2 of this Act shall be null
27 and void without the necessity of further action by the General Assembly.

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
29 effect November 1, 2002.