

**HOUSE BILL 313**  
**EMERGENCY BILL**

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D4

2003 Regular Session  
3r1136

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By: **Delegate Jones**

Introduced and read first time: January 31, 2003

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 4, 2003

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Child Support Enforcement - Financial Institution - Definition**

3 FOR the purpose of altering the definition of financial institution in a provision  
4 requiring a financial institution to provide certain information and assistance to  
5 the Child Support Enforcement Administration; providing for the construction of  
6 a certain reference for certain purposes; establishing that an  
7 institution-affiliated party is not required to provide certain information or  
8 assistance to the Administration under certain circumstances; providing certain  
9 immunity from civil liability or criminal penalty for an institution-affiliated  
10 party; defining a certain term; making this Act an emergency measure; and  
11 generally relating to child support enforcement.

12 BY repealing and reenacting, with amendments,  
13 Article - Family Law  
14 Section 10-108.2, 10-108.3, and 10-108.4  
15 Annotated Code of Maryland  
16 (1999 Replacement Volume and 2002 Supplement)

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

19 **Article - Family Law**

20 10-108.2.

21 (a) (1) [In] EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, IN this  
22 section and in [§ 10-108.3] §§ 10-108.3 AND 10-108.4 of this [subtitle] SUBTITLE, the  
23 following words have the meanings indicated.

1 (2) (i) "Account" means:

2 1. any funds from a demand deposit account, checking  
3 account, negotiable order of withdrawal account, savings account, time deposit  
4 account, money market mutual fund account, or certificate of deposit account;

5 2. any funds paid towards the purchase of shares or other  
6 interest in a financial institution, as defined in paragraph (4)(ii) and (iii) of this  
7 subsection; and

8 3. any funds or property held by a financial institution, as  
9 defined in paragraph (4)(iv) of this subsection.

10 (ii) "Account" does not include:

11 1. an account or portion of an account to which an obligor  
12 does not have access due to the pledge of the funds as security for a loan or other  
13 obligation;

14 2. funds or property deposited to an account after the time  
15 that the financial institution initially attaches the account;

16 3. an account or portion of an account to which the financial  
17 institution has a present right to exercise a right of setoff;

18 4. an account or portion of an account that has an account  
19 holder of interest named as an owner on the account; or

20 5. an account or portion of an account to which the obligor  
21 does not have an unconditional right of access.

22 (3) "Account holder of interest" means any person, other than the obligor,  
23 who asserts an ownership interest in an account.

24 (4) "Financial institution" means:

25 (i) a depository institution, as defined in the Federal Deposit  
26 Insurance Act at 12 U.S.C. § 1813(c);

27 (II) AN INSTITUTION-AFFILIATED PARTY, AS DEFINED IN THE  
28 FEDERAL DEPOSIT INSURANCE ACT AT 12 U.S.C. § 1813(U);

29 [(ii)] (III) a federal OR STATE credit union, as defined in the Federal  
30 Credit Union Act at 12 U.S.C. § 1752;

31 [(iii)] (IV) a State credit union regulated under Title 6 of the  
32 Financial Institutions Article; [or]

33 (V) AN INSTITUTION-AFFILIATED PARTY, AS DEFINED IN THE  
34 FEDERAL CREDIT UNION ACT AT 12 U.S.C. § 1786(R); OR

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

4 (B) FOR PURPOSES OF SUBSECTION (A)(4)(V) OF THIS SECTION, ANY  
5 REFERENCE TO "INSURED CREDIT UNION" AT 12 U.S.C. § 1786(R) SHALL BE  
6 CONSTRUED TO INCLUDE A CREDIT UNION INSURED IN ACCORDANCE WITH §  
7 6-701(A)(2) OF THE FINANCIAL INSTITUTIONS ARTICLE.

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

11 [(c)] (D) (1) The Administration may request not more than four times a  
12 year from a financial institution the information set forth in subsection [(d)(2)] (E)(2)  
13 of this section concerning any obligor in arrears in paying child support through a  
14 support enforcement agency.

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

17 (i) contain:

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

20 2. the Social Security number or other taxpayer  
21 identification number of the obligor; and

22 (ii) be transmitted to the financial institution in an electronic  
23 format unless the financial institution specifically asks the Administration to submit  
24 the request in writing.

25 [(d)] (E) (1) Within 30 days after a financial institution receives a request  
26 for information under subsection [(c)] (D) of this section, the financial institution  
27 shall:

28 (i) notify the Administration that the financial institution submits  
29 reports indirectly through the Federal Parent Locator Service under 42 U.S.C. §  
30 666(a)(17); or

31 (ii) with respect to each obligor whose name the Administration  
32 submitted to the financial institution and who maintains an account with the  
33 financial institution, submit a report to the Administration.

34 (2) The report described in paragraph (1)(ii) of this subsection shall  
35 contain, to the extent reflected in the records of the financial institution:

36 (i) the full name of the obligor;

- 1 (ii) the address of the obligor;
- 2 (iii) the Social Security or other taxpayer identification number of  
3 the obligor;
- 4 (iv) any other identifying information needed to assure positive  
5 identification of the obligor; and
- 6 (v) for each account of the obligor, the obligor's account number and  
7 balance.

8 (3) A report submitted under paragraph (1)(ii) of this subsection shall be  
9 provided to the Administration in machine readable form.

10 (4) The Administration shall pay the financial institution a reasonable  
11 fee, not to exceed the actual costs incurred by the financial institution to comply with  
12 the requirements of this section and § 10-108.3 of this subtitle including costs for:

- 13 (i) compiling and providing reports to the Administration;
- 14 (ii) compiling and providing reports through the Federal Parent  
15 Locator Service, but in such a case the actual costs of the financial institution shall be  
16 based on a percentage of the financial institution's total actual cost, which percentage  
17 shall be determined by dividing the total number of accounts maintained by the  
18 financial institution in Maryland by the total number of accounts maintained by the  
19 financial institution for all jurisdictions included in the report; and
- 20 (iii) necessary upgrades to existing computer, software, or other  
21 data compilation systems that are directly related to compliance with the  
22 requirements of this section and § 10-108.3 of this subtitle.

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

25 [(e)] (F) A financial institution that complies with a request from the  
26 Administration by notifying the Administration or submitting a report to the  
27 Administration in accordance with subsection [(d)] (E) of this section is not liable  
28 under State law to any person for any:

- 29 (1) disclosure of information to the Administration under this section; or
- 30 (2) other action taken in good faith to comply with the requirements of  
31 this section.

32 (G) AN INSTITUTION-AFFILIATED PARTY, AS DEFINED IN SUBSECTION  
33 (A)(4)(II) AND (V) OF THIS SECTION, IS NOT REQUIRED TO PROVIDE INFORMATION AND  
34 ASSISTANCE UNDER THIS SECTION IF THE FINANCIAL INSTITUTION WITH WHICH  
35 THE PARTY IS AFFILIATED HAS OTHERWISE PROVIDED THE REQUIRED  
36 INFORMATION OR ASSISTANCE.

1 10-108.3.

2 (A) (1) IN THIS SECTION AND IN § 10-108.4 OF THIS SUBTITLE, "FINANCIAL  
3 INSTITUTION" MEANS:

4 (I) A DEPOSITORY INSTITUTION, AS DEFINED IN THE FEDERAL  
5 DEPOSIT INSURANCE ACT AT 12 U.S.C. § 1813(C);

6 (II) A FEDERAL OR STATE CREDIT UNION, AS DEFINED IN THE  
7 FEDERAL CREDIT UNION ACT AT 12 U.S.C. § 1752;

8 (III) A STATE CREDIT UNION REGULATED UNDER TITLE 6 OF THE  
9 FINANCIAL INSTITUTIONS ARTICLE; OR

10 (IV) A BENEFIT ASSOCIATION, INSURANCE COMPANY, SAFE  
11 DEPOSIT COMPANY, MONEY MARKET MUTUAL FUND, OR SIMILAR ENTITY DOING  
12 BUSINESS IN THE STATE THAT HOLDS PROPERTY OR MAINTAINS ACCOUNTS  
13 REFLECTING PROPERTY BELONGING TO OTHERS.

14 (2) IN THIS SECTION AND IN § 10-108.4 OF THIS SUBTITLE, "FINANCIAL  
15 INSTITUTION" DOES NOT INCLUDE AN INSTITUTION-AFFILIATED PARTY, AS DEFINED  
16 IN § 10-108.2(A)(4)(II) AND (V) OF THIS SUBTITLE.

17 [(a)] (B) (1) If an obligor identified in a report submitted under Section  
18 10-108.2 of this subtitle or in a report made to the Federal Parent Locator Service  
19 under 42 U.S.C. § 666(a)(17) is \$500 or more in arrears of a child support obligation  
20 and has not paid child support for more than 60 days, the Administration may  
21 institute an action to attach and seize the amount of the arrearage in one or more of  
22 the accounts of the obligor with a financial institution to satisfy the amount of  
23 arrearage owed by the obligor.

24 (2) Before attaching and seizing the obligor's accounts, the  
25 Administration shall send a notice to the obligor at the obligor's last known address  
26 advising the obligor of the enforcement actions that may be taken, including that the  
27 obligor's accounts may be subject to garnishment for payment of a child support  
28 arrearage.

29 [(b)] (C) (1) If the Administration institutes an action against an obligor  
30 under subsection [(a)] (B) of this section, the Administration shall send a notice to the  
31 financial institution in which one or more of the obligor's accounts are located, by  
32 certified mail, return receipt requested, or by other method acceptable to the financial  
33 institution, at the address designated for this purpose by the financial institution or,  
34 if no address has been designated, to the principal office of the financial institution.

35 (2) The notice shall contain the following information, to the extent  
36 known by the Administration:

37 (i) the address of the Administration;

1 (ii) the telephone number, address, and name of a contact person at  
2 the Administration;

3 (iii) the name and Social Security number or other taxpayer  
4 identification number of the obligor;

5 (iv) the address of the obligor;

6 (v) for each account of the obligor, the obligor's account number and  
7 known balance with the financial institution;

8 (vi) the amount of arrearage that the financial institution shall  
9 seize and attach from one or more of the accounts of the obligor; and

10 (vii) a statement instructing the financial institution to immediately  
11 attach and seize the amount of arrearage stated in item (vi) of this paragraph from  
12 one or more of the accounts of the obligor and, upon subsequent notice by the  
13 Administration, to forward the amount to the Administration.

14 [(c)] (D) (1) On receipt of the notice under subsection [(b)] (C) of this  
15 section, the financial institution shall promptly seize and attach from one or more of  
16 the accounts identified in the Administration's notice to the financial institution an  
17 aggregate amount equal to the lesser of the amounts in all accounts or the amount  
18 stated in the notice.

19 (2) Not later than 30 days after the financial institution receives the  
20 notice directing it to seize and attach accounts of the obligor, the financial institution  
21 shall send notice to the Administration by regular mail specifying the aggregate  
22 amount held under this subsection.

23 (3) If an account that has been seized and attached is maintained by the  
24 obligor with one or more account holders of interest as reflected on the records of the  
25 financial institution, the financial institution's notice to the Administration shall  
26 state that fact and shall provide, to the extent reflected in the financial institution's  
27 records, the name and address of the other person or persons.

28 (4) (i) The financial institution may assess a fee against the accounts  
29 or the obligor, in addition to the amount identified in the notice under subsection  
30 [(b)] (C) of this section.

31 (ii) In the case of insufficient funds to cover both the fee and the  
32 amount identified in the notice under subsection [(b)] (C) of this section, the financial  
33 institution may first deduct and retain the fee from the amount seized and attached  
34 as provided in this section.

35 (5) The financial institution may not be held liable to any person,  
36 including the Administration, the obligor, or any person named on the account, for  
37 wrongful dishonor or for any other claim relating to the seizure and attachment of the  
38 account or other actions taken in compliance with this section.

1 [(d)] (E) (1) Within 2 days after the Administration has received the return  
2 receipt from the notice sent to the financial institution under subsection [(b)] (C) of  
3 this section, the Administration shall promptly send a notice to the obligor, by regular  
4 mail, to the obligor's last known address, or if the home address is not known, to the  
5 place of last known employment.

6 (2) The notice shall contain the following information, to the extent  
7 known by the Administration:

8 (i) the address of the Administration;

9 (ii) the telephone number, address, and name of a contact person at  
10 the Administration;

11 (iii) the name and Social Security number or other taxpayer  
12 identification number of the obligor;

13 (iv) the address of the obligor;

14 (v) for each account of the obligor, the obligor's account number and  
15 known balances with the financial institution;

16 (vi) the total amount of the arrearage owed by the obligor;

17 (vii) the date the notice is being sent;

18 (viii) a statement informing the obligor that the Administration has  
19 directed the financial institution to seize and attach the amount of the arrearage  
20 owed by the obligor from one or more of the accounts of the obligor and, upon  
21 subsequent notice by the Administration, to forward the amount to the  
22 Administration; and

23 (ix) a statement informing the obligor that, unless a timely  
24 challenge is made to the Administration by the obligor or an account holder of interest  
25 under subsection [(g)] (H) of this section, the Administration shall notify the financial  
26 institution to forward the amount seized and attached by the financial institution to  
27 the Administration.

28 [(e)] (F) If a timely challenge is not made by the obligor or an account holder  
29 of interest under subsection [(g)] (H) of this section, the Administration shall send a  
30 notice to the financial institution, in the manner specified in subsection [(b)] (C) of  
31 this section, directing the institution to forward the amount seized and attached by  
32 the financial institution to the Administration.

33 [(f)] (G) The Administration shall apply the amount seized and forwarded by  
34 the financial institution to the obligor's child support arrears. If the obligor has more  
35 than one child support case with arrears, the Administration shall allocate the  
36 amount received among one or more of the obligor's cases, as determined appropriate  
37 by the Administration.

1 [(g)] (H) (1) An obligor or an account holder of interest may challenge the  
2 actions of the Administration under this section by:

3 (i) filing a request for an investigation with the Administration; or

4 (ii) filing a motion with the circuit court.

5 (2) A challenge under paragraph (1)(i) of this subsection shall:

6 (i) be in writing;

7 (ii) be received by the Administration within 30 days from the date  
8 of the notice under subsection [(d)] (E) of this section;

9 (iii) be sent to the contact person identified in the notice sent to the  
10 obligor under subsection [(d)] (E) of this section; and

11 (iv) specify, in detail, the reasons for the challenge.

12 (3) An obligor or account holder of interest may not challenge the actions  
13 of the Administration on issues related to visitation, custody, or other matters not  
14 related to an account.

15 (4) An obligor or an account holder of interest may challenge the actions  
16 of the Administration based on an exemption in § 11-504 or § 11-603 of the Courts  
17 Article or for any other good cause.

18 [(h)] (I) (1) Upon receipt of a challenge under subsection [(g)] (H) of this  
19 section, the Administration shall review the challenge in accordance with this  
20 subsection.

21 (2) The Administration shall release or reduce the amount seized and  
22 attached by the financial institution for a mistake of fact, including:

23 (i) a mistake in the identity of the obligor;

24 (ii) a mistake in the ownership of an account;

25 (iii) a mistake in the contents of an account;

26 (iv) a mistake in the amount of arrearage due; or

27 (v) any other good cause.

28 (3) The Administration shall release or reduce the amount seized and  
29 attached by the financial institution if the account is exempt under § 11-504 or §  
30 11-603 of the Courts Article or for any other good cause.

31 (4) The Administration shall send a notice to the financial institution, in  
32 the manner specified in subsection [(b)] (C) of this section, directing the financial  
33 institution to release the amount seized and attached by the financial institution if



1 the Administration determines that a mistake of fact has occurred, the account is  
2 exempt under § 11-504 or § 11-603 of the Courts Article, or other good cause exists.

3 (5) The Administration shall send a notice to the financial institution, in  
4 the manner specified in subsection [(b)] (C) of this section, directing the financial  
5 institution to reduce the amount seized and attached to the revised amount stated  
6 and to release the excess amount if the Administration determines that:

7 (i) the amount owed by the obligor is less than the amount  
8 originally indicated on the notice under subsection (b) of this section;

9 (ii) the obligor does not have an ownership interest in one or more  
10 of the accounts seized and attached or a portion thereof; or

11 (iii) the account or a portion of the account is exempt under § 11-504  
12 or § 11-603 of the Courts Article or other good cause exists.

13 [(i)] (J) (1) The Administration shall send by regular mail a notice of its  
14 findings, including a finding of no mistake of fact, to the obligor and any other  
15 challenging party.

16 (2) The notice shall inform the obligor or the challenging party of the  
17 right to appeal the decision of the Administration to the Office of Administrative  
18 Hearings or to the circuit court.

19 [(j)] (K) If no timely appeal is filed, the Administration shall send a notice to  
20 the financial institution, in the manner specified in subsection [(b)] (C) of this  
21 section, directing the financial institution to forward the amount specified in the  
22 notice, including any revised amount under subsection [(h)(5)] (I)(5) of this section, to  
23 the Administration.

24 [(k)] (L) (1) An appeal to the Office of Administrative Hearings authorized  
25 under subsection [(i)] (J) of this section shall be conducted in accordance with Title  
26 10, Subtitle 2 of the State Government Article.

27 (2) An appeal to the Office of Administrative Hearings shall be:

28 (i) in writing; and

29 (ii) received by the Office of Administrative Hearings within 30  
30 days after the notice is sent to the obligor or other challenging party under subsection  
31 [(i)] (J) of this section.

32 [(l)] (M) After the completion of an appeal to the Office of Administrative  
33 Hearings authorized under subsection [(i)] (J) of this section, the Administration  
34 shall:

35 (1) send a notice to the financial institution, in the manner specified in  
36 subsection [(b)] (C) of this section, directing the financial institution to release the

1 amount seized and attached by the financial institution if the Office of Administrative  
2 Hearings finds that:

3 (i) there is a mistake of identity;

4 (ii) the obligor does not have an ownership interest in the contents  
5 of any account held; or

6 (iii) there is no arrearage;

7 (2) send a notice to the financial institution, in the manner specified in  
8 subsection [(b)] (C) of this section, directing the financial institution to release the  
9 attachment on any amount in excess of the revised amount stated and that the  
10 revised amount stated be forwarded to the Administration if the Office of  
11 Administrative Hearings finds that:

12 (i) the obligor is delinquent, but the amount of the arrearage is less  
13 than the amount indicated in the notice under subsection [(b)] (C) of this section or in  
14 a subsequent notice under subsection [(h)(5)] (I)(5) of this section; or

15 (ii) the obligor does not have ownership interest in one or more of  
16 the accounts seized and attached or a portion of the accounts; or

17 (3) send a notice to the financial institution, in the manner specified in  
18 subsection [(b)] (C) of this section, directing the financial institution to transfer the  
19 amounts seized and attached to the Administration if the Office of Administrative  
20 Hearings upholds the determination of the Administration.

21 [(m)] (N) (1) A challenging party may withdraw an administrative challenge  
22 or appeal by submitting a notice of the withdrawal to the person identified as the  
23 contact person for the Administration in the notice under subsection [(d)] (E) of this  
24 section, or to the Office of Administrative Hearings.

25 (2) The Administration may withdraw the notice to attach accounts by  
26 sending notice to the financial institution, in the manner specified in subsection [(b)]  
27 (C) of this section, directing the financial institution to release the attachment on the  
28 account.

29 [(n)] (O) If a determination is made by the Administration or by the Office of  
30 Administrative Hearings that the account or accounts of the obligor should not have  
31 been held, the Administration shall notify the financial institution, in the manner  
32 specified in subsection [(b)] (C) of this section, to release the amount seized and  
33 attached by the financial institution.

34 [(o)] (P) (1) A financial institution that complies with a request or notice  
35 from the Administration made under this section is not liable under State law to any  
36 person for:

37 [(1)] (I) any disclosure of information to the Administration under this  
38 section;

1           [(2)]   (II)    seizing and attaching any amounts from an account, sending  
2 any amount seized and attached by the financial institution to the Administration, or  
3 releasing all or a part of the amount seized and attached by the financial institution;  
4 or

5           [(3)]   (III)   any other action taken in good faith to comply with the  
6 requirements of this section.

7           (2)    AN INSTITUTION-AFFILIATED PARTY, AS DEFINED IN §  
8 10-108.2(A)(4)(II) AND (V) OF THIS SUBTITLE, IS IMMUNE FROM ANY CIVIL LIABILITY  
9 OR CRIMINAL PENALTY FOR ANY ACTION TAKEN UNDER THIS SECTION.

10       [(p)]   (Q)    (1)    Notwithstanding any other statutory provisions or rules of court  
11 that provide for the execution, attachment, garnishment, or levy against an account,  
12 and subject to paragraph (2) of this subsection, the Administration may utilize the  
13 procedures established in this section exclusively to collect delinquent child support.

14           (2)    This section may not be construed to prohibit the Administration  
15 from collecting delinquent child support in any other manner authorized by law.

16 10-108.4.

17       (a)    If the Administration institutes an action under [§ 10-108.3(a)] §  
18 10-108.3(B) of this subtitle and no obligor has any ownership interest in a seized  
19 account at the time the Administration institutes the action, the Administration shall  
20 reimburse the account holders of interest for fees incurred as a result of instituting  
21 the action, including:

22           (1)    fees assessed by the financial institution as a result of the  
23 Administration's action;

24           (2)    fees assessed by the financial institution for insufficient funds;

25           (3)    fees assessed by merchants for dishonored checks; and

26           (4)    reasonable attorney's fees incurred by the account holders of interest  
27 related to an administrative or judicial review of the Administration's decision to  
28 institute the action.

29       (b)    An account holder of interest who wishes to request reimbursement under  
30 this section shall file a written request within 60 days after the account is seized. The  
31 request shall include copies of the notices or other proof of the assessment of fees for  
32 which reimbursement is sought.

33       (c)    The Administration is not required to reimburse an account holder of  
34 interest for fees incurred if:

35           (1)    the account holder of interest fails to make a request for  
36 reimbursement within 60 days after the account was seized;

1 (2) the account holder of interest fails to provide proof of the assessment  
2 of fees; or

3 (3) the fees were incurred as a result of a debit made to the account after  
4 the account holder of interest had actual notice of the account seizure.

5 (d) This section does not apply to fees incurred as a result of a judicial  
6 garnishment.

7 (e) A financial institution has no obligation to reimburse fees assessed as a  
8 result of the Administration instituting an action under § 10-108.3 of this subtitle or  
9 as otherwise permitted by law or authorized by contract.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect~~  
11 ~~July 1, 2003~~ is an emergency measure, is necessary for the immediate preservation of  
12 the public health or safety, has been passed by a yea and nay vote supported by  
13 three-fifths of all the members elected to each of the two Houses of the General  
14 Assembly, and shall take effect from the date it is enacted.