

SENATE BILL 408
EMERGENCY BILL

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2003 Regular Session
(3r0637)

ENROLLED BILL
-- *Judicial Proceedings/Judiciary* --

Introduced by **Senator Jimeno**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Child Support Enforcement - Earnings Withholding**

3 FOR the purpose of requiring that, when a court orders immediate service of an
4 earnings withholding order, the court order payments through the State
5 disbursement unit; ~~requiring an employer to provide an obligor with a copy of~~
6 ~~notice of earnings withholding within a specified period after the employer has~~
7 ~~been served with the notice; repealing the requirement that certain documents~~
8 ~~be sent by certified mail in cases where the Child Support Enforcement~~
9 ~~Administration has served the obligor's employer with an earnings withholding~~
10 ~~notice; authorizing a parent or support enforcement agency to use means other~~
11 ~~than certified mail to send to the parent's employer a copy of an order to provide~~
12 ~~health insurance coverage; making certain conforming changes; making stylistic~~
13 ~~changes; making this Act an emergency measure; and generally relating to~~
14 ~~earnings withholding and medical support *child support enforcement*.~~

15 BY repealing and reenacting, with amendments,
16 Article - Family Law

1 Section 10-123, ~~10-124, and 12-102(d)(1)~~ 10-128(a), and 10-129(a)
 2 Annotated Code of Maryland
 3 (1999 Replacement Volume and 2002 Supplement)

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

6 **Article - Family Law**

7 10-123.

8 (a) Except as otherwise provided for in this section and notwithstanding any
 9 other provision of this Part III, a court shall immediately authorize service of an
 10 earnings withholding order when:

11 (1) (i) a support order or modification of support order is passed on or
 12 after April 9, 1991;

13 (ii) a case is being enforced by a support enforcement agency; and

14 (iii) the recipient or support enforcement agency requests service of
 15 an earnings withholding order; or

16 (2) the Department of Health and Mental Hygiene requests service of an
 17 earnings withholding order for court ordered medical support.

18 (b) Except as provided in subsection (d) of this section, for all child support
 19 orders that are initially issued in the State on or after January 1, 1994, regardless of
 20 whether child support payments are in arrears, a court shall immediately authorize
 21 service of an earnings withholding order on the effective date of the order.

22 (c) ~~[(1)] Except as provided in [paragraph (2)] SUBSECTION (D) of this~~
 23 ~~[subsection] SECTION, when~~ *WHEN* a court orders immediate service of an earnings
 24 withholding order on or after July 1, 1994, the court shall order payments[:

25 (i) in a case in which the Administration is providing support
 26 services,] through the State disbursement unit[; or

27 (ii) directly to the obligee's bank account.

28 (2) A party may request and the court may order that an employer send
 29 payments directly to the obligee].

30 (d) A court may not authorize the immediate service of an earnings
 31 withholding order if:

32 (1) any party demonstrates, and the court finds, that there is good cause
 33 to not require immediate earnings withholding; or

1 (2) the court approves of the terms of a written agreement of the parties
2 providing for an alternative method of payment.

3 (e) If the court authorizes the immediate service of an earnings withholding
4 order, the court shall immediately cause a copy of the earnings withholding order to
5 be served on any employer of the obligor.

6 ~~10-124.~~

7 (a) ~~Except as otherwise provided in this Part III, the Administration may~~
8 ~~serve an earnings withholding notice on an employer of an obligor without the need~~
9 ~~for any modification of the support order or any further action by a tribunal if:~~

10 (1) (i) a tribunal has issued a support order; and

11 (ii) the Administration is providing child support services under
12 Title IV, Part D, of the Social Security Act; or

13 (2) an obligor requests the service of an earnings withholding notice.

14 (b) ~~The Administration may serve an employer with an earnings withholding~~
15 ~~notice using an electronic format if the employer has entered into an agreement with~~
16 ~~the Administration to accept service of an earnings withholding notice in this manner.~~

17 (c) ~~When the Administration serves an employer with an earnings~~
18 ~~withholding notice under this section[,]:~~

19 (1) ~~THE EMPLOYER SHALL PROVIDE THE OBLIGOR WITH A COPY OF THE~~
20 ~~NOTICE WITHIN 2 DAYS AFTER THE EMPLOYER RECEIVES THE NOTICE; AND~~

21 (2) ~~the Administration shall send to the obligor, by [certified mail,~~
22 ~~return receipt requested, and] first class mail, at the obligor's last known home~~
23 ~~address or, if the home address is unknown, the place of employment last reported to~~
24 ~~the court:~~

25 [(1)] (I) a copy of the earnings withholding notice;

26 [(2)] (II) a statement of the procedures under § 10-134 of this subtitle
27 that the obligor must follow to terminate earnings withholding;

28 [(3)] (III) a statement of the obligor's right to contest the accuracy of the
29 information provided in the earnings withholding notice by filing a motion for a stay
30 of the earnings withholding notice in circuit court or requesting an investigation no
31 later than 15 days after a copy of the withholding notice is mailed to the obligor under
32 this section; and

33 [(4)] (IV) a statement of the amount [of] IN arrears apportioned to each
34 payment that is to be included in the amount of earnings withheld under § 10-122 of
35 this subtitle.

1 (d) The only issues that may be adjudicated at a hearing or contested in an
2 investigation under subsection [(e)(3)] (C)(2)(III) of this section are:

3 (1) whether an arrearage existed;

4 (2) the amount of the withholding or the amount of any arrearage;

5 (3) the identity of the obligor; or

6 (4) that the amount of the withholding notice exceeds the limits of the
7 federal Consumer Credit Protection Act.

8 (e) (1) If an obligor requests an investigation, the Administration shall:

9 (i) conduct an investigation within 15 days after the obligor's
10 request; and

11 (ii) on completion of the investigation, notify the obligor of the
12 results of the investigation and the obligor's right to appeal the decision of the
13 Administration to the Office of Administrative Hearings.

14 (2) An appeal under paragraph (1)(ii) of this subsection shall be
15 conducted in accordance with Title 10, Subtitle 2 of the State Government Article.

16 ~~12-102.~~

17 (d) (1) If a court orders a parent to provide health insurance coverage under
18 this section, the parent under the order or the support enforcement agency shall send
19 a copy of the order or medical support notice to the parent's employer by certified
20 mail, return receipt requested, ~~OR BY OTHER MEANS APPROVED BY THE CHILD~~
21 ~~SUPPORT ENFORCEMENT ADMINISTRATION~~, separate from or in conjunction with an
22 earnings withholding order, as provided in § 10-123 of this article.

23 ~~10-128.~~

24 (a) An earnings withholding order or an earnings withholding notice sent to
25 the obligor's employer shall:

26 (1) be a separate document, and not include any other orders or
27 pleadings; and

28 (2) include only the following information:

29 (i) the amount to be withheld from the obligor's earnings including
30 explanation of the application of the federal Consumer Credit Protection Act limits;

31 (ii) that subject to further orders of the tribunal, the employer is
32 required to withhold the stated amount on a regular and continuing basis
33 commencing on the beginning of the next pay period after receipt of the earnings
34 withholding order or the earnings withholding notice;

1 (iii) that the employer may deduct and retain from the employee's
2 earnings an additional \$2 for each deduction made under the earnings withholding
3 order or earnings withholding notice;

4 (iv) that the net amount withheld is to be sent promptly to the State
5 disbursement unit [or the recipient as specified in the order]; and

6 (v) any other information that the employer needs to comply with
7 the earnings withholding order or earnings withholding notice.

8 10-129.

9 (a) On receipt of a copy of an earnings withholding order or earnings
10 withholding notice an employer shall, beginning with the next pay period after
11 receipt of the earnings withholding order or earnings withholding notice:

12 (1) deduct the amount of the withholding from the obligor's earnings on
13 a regular basis; and

14 (2) send the deducted net amount directly to the State disbursement unit
15 [or the recipient, as specified in the earnings withholding order or earnings
16 withholding notice,] within 7 days not including Saturday, Sunday, or a legal holiday
17 after the day on which the earnings are paid to the obligor.

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