

SENATE BILL 524

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D4

2003 Regular Session
(3r1040)

ENROLLED BILL
-- Finance/Appropriations --

Introduced by **Senators Pipkin, Astle, DeGrange, Exum, Hafer, Harris, Jacobs, Kittleman, Lawlah, Mooney, Munson, Schrader, and Teitelbaum**

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 **Department of Human Resources - Child Support Enforcement**
3 **Privatization Pilot Program and Demonstration Sites - Established**

4 FOR the purpose of establishing the Child Support Enforcement Privatization Pilot
5 Program; requiring the Secretary of Human Resources to provide a certain
6 report to the Governor and the General Assembly by a certain date; establishing
7 certain rights for certain employees; authorizing the Pilot Program to conduct a
8 conciliation conference; requiring the Secretary to establish certain
9 demonstration sites according to a certain schedule; requiring the Secretary to
10 appoint a director of child support services in a demonstration site; authorizing
11 the Secretary to sever certain contracts under certain circumstances; classifying
12 certain employment positions in a demonstration site; requiring the Secretary to
13 establish a certain performance incentive program; authorizing a demonstration
14 site to conduct a conciliation conference; requiring the Secretary to adopt certain
15 regulations; providing for the term of a certain privatization contract between
16 the Department of Human Resources and a private contractor; defining certain

1 terms; providing for the termination of this Act; and generally relating to child
2 support enforcement.

3 BY adding to
4 Article - Family Law
5 Section 10-119.1 and 10-119.2
6 Annotated Code of Maryland
7 (1999 Replacement Volume and 2002 Supplement)

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

10 **Article - Family Law**

11 10-119.1.

12 (A) IN THIS SECTION, "CONCILIATION CONFERENCE" MEANS A CONFERENCE
13 CONDUCTED AT A SITE DESIGNATED BY THE PILOT PROGRAM ESTABLISHED UNDER
14 SUBSECTION (B) OF THIS SECTION TO PROVIDE AN OPPORTUNITY FOR THE PARTIES
15 TO RESOLVE ISSUES ASSOCIATED WITH AN ACTION TO MODIFY OR ENFORCE A DUTY
16 OF SUPPORT PRIOR TO GOING TO A COURT PROCEEDING.

17 (B) (1) NOTWITHSTANDING § 13-405 OF THE STATE PERSONNEL AND
18 PENSIONS ARTICLE, THERE IS A CHILD SUPPORT ENFORCEMENT PRIVATIZATION
19 PILOT PROGRAM WITHIN THE DEPARTMENT.

20 (2) THE PILOT PROGRAM SHALL OPERATE IN BALTIMORE CITY AND
21 QUEEN ANNE'S COUNTY.

22 (C) THE PURPOSE OF THE PILOT PROGRAM IS TO AUTHORIZE THE SECRETARY
23 OF THE DEPARTMENT TO ENTER INTO CONTRACTS WITH PRIVATE COMPANIES TO
24 PRIVATIZE ALL ASPECTS OF CHILD SUPPORT ENFORCEMENT FUNCTIONS OF THE
25 DEPARTMENT, INCLUDING:

26 (1) LOCATING ABSENT PARENTS;

27 (2) ESTABLISHING PATERNITIES;

28 (3) ESTABLISHING SUPPORT ORDERS;

29 (4) COLLECTING AND DISBURSING SUPPORT PAYMENTS;

30 (5) REVIEWING AND MODIFYING CHILD SUPPORT ORDERS; AND

31 (6) EXCEPT FOR LEGAL REPRESENTATION IN ACCORDANCE WITH §
32 10-115 OF THIS SUBTITLE AND AS OTHERWISE PROVIDED BY LAW, ENFORCING
33 SUPPORT OBLIGATIONS.

1 (D) SUBJECT TO SUBSECTION ~~(H)~~ (H) OF THIS SECTION, THE SECRETARY
2 SHALL:

3 (1) ADOPT REGULATIONS THAT:

4 (I) REQUIRE THE TRANSFER OF ALL ASPECTS OF CHILD SUPPORT
5 ENFORCEMENT TO ONE OR MORE PRIVATE CONTRACTORS BY JULY 1, 2003;

6 (II) PROVIDE FOR THE REIMBURSEMENT OF ANY PRIVATE
7 CONTRACTOR;

8 (III) PROHIBIT THE COST OF TRANSFERRING CHILD SUPPORT
9 ENFORCEMENT TO PRIVATE CONTRACTORS AS DEFINED IN ITEM (II) OF THIS
10 PARAGRAPH FROM EXCEEDING THE FISCAL YEAR 1995 ADMINISTRATIVE COST PER
11 CHILD SUPPORT DOLLAR COLLECTED BY THE CHILD SUPPORT ENFORCEMENT
12 ADMINISTRATION IN THE PILOT PROGRAM AREAS;

13 (IV) ESTABLISH PROCEDURES FOR THE ORDERLY TRANSITION
14 FROM AN EXISTING PRIVATE CONTRACTOR TO THE PRIVATE CONTRACTOR
15 SELECTED TO CONTINUE PRIVATIZATION UNDER THIS SECTION;

16 ~~(IV)~~ (V) REQUIRE ANY PRIVATE CONTRACTOR TO OFFER
17 EMPLOYMENT UPON TERMS DEEMED BY THE SECRETARY TO BE FAIR AND
18 EQUITABLE TO ANY ~~FORMER~~ EXISTING STATE EMPLOYEES WORKING FOR AN
19 EXISTING CONTRACTOR WHO ARE AFFECTED BY THE TRANSFER OF CHILD SUPPORT
20 ENFORCEMENT RESPONSIBILITIES UNDER THIS SECTION AND TO RETAIN ANY
21 EMPLOYEES WHO ACCEPT THE OFFER:

22 1. FOR THE DURATION OF THE PILOT PROGRAM UNLESS
23 THERE IS CAUSE FOR DISMISSAL; AND

24 2. AT A SALARY AND BENEFIT LEVEL COMPARABLE TO THE
25 SALARY AND BENEFITS TO WHICH THEY WERE ENTITLED AT THE TIME OF THE
26 TRANSFER;

27 ~~(V)~~ (VI) REQUIRE ANY PRIVATE CONTRACTOR TO ADOPT A
28 GRIEVANCE PROCEDURE FOR EMPLOYEES WHO ARE RETAINED BY THE PRIVATE
29 CONTRACTOR UNDER ITEM ~~(V)~~ (V) OF THIS ITEM; AND

30 ~~(VI)~~ (VII) PROHIBIT THE REIMBURSEMENT OF ANY PRIVATE
31 CONTRACTOR FROM CHILD SUPPORT COLLECTIONS; AND

32 (2) ASSIST AN EMPLOYEE WHO DECLINES AN OFFER OF EMPLOYMENT
33 WITH A PRIVATE CONTRACTOR TO IDENTIFY A COMPARABLE POSITION IN THE STATE
34 PERSONNEL MANAGEMENT SYSTEM TO WHICH THE EMPLOYEE MAY TRANSFER.

35 ~~(E) A STATE EMPLOYEE WHO IS A NONTEMPORARY EMPLOYEE WITH THE~~
36 ~~CHILD SUPPORT ENFORCEMENT ADMINISTRATION AND WHO IS CURRENTLY~~
37 ~~WORKING FOR THE EXISTING PRIVATE CONTRACTOR SHALL REMAIN A~~
38 ~~NONTEMPORARY EMPLOYEE WITH THE ADMINISTRATION FOR THE DURATION OF~~

1 ~~CHAPTER (S.B. 524) OF THE ACTS OF THE GENERAL ASSEMBLY OF 2003, UNLESS~~
 2 ~~THE EMPLOYEE ACCEPTS EMPLOYMENT WITH THE PRIVATE CONTRACTOR AS~~
 3 ~~PROVIDED UNDER SUBSECTION (D)(1)(IV) OF THIS SECTION.~~

4 ~~(E)~~ ~~(F)-(E)~~ A REQUEST FOR PROPOSAL TO TRANSFER CHILD SUPPORT
 5 COLLECTION ACTIVITIES ISSUED UNDER THIS SECTION SHALL:

6 (1) COMPLY WITH THE PROVISIONS OF DIVISION II OF THE STATE
 7 FINANCE AND PROCUREMENT ARTICLE;

8 (2) SET FORTH THE GOALS OF THE PRIVATIZATION; AND

9 (3) SPECIFY THE INCENTIVES WHICH WILL BE AVAILABLE TO THE
 10 CONTRACTOR.

11 ~~(F)~~ ~~(G)-(F)~~ (1) ON OR BEFORE OCTOBER 1, 2003, AND ANNUALLY
 12 THEREAFTER, THE SECRETARY SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO
 13 § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE
 14 OPERATION AND PERFORMANCE OF THE PILOT PROGRAM.

15 (2) THE REPORT SHALL ASSESS THE PILOT PROGRAM FOR ITS
 16 EFFECTIVENESS AND SUCCESS IN ENHANCING CHILD SUPPORT COLLECTION
 17 THROUGH THE PRIVATIZATION OF CHILD SUPPORT ENFORCEMENT IN BALTIMORE
 18 CITY AND QUEEN ANNE'S COUNTY IN THE STATE.

19 (3) THE SECRETARY SHALL INCLUDE IN THE REPORT THE PLANS FOR
 20 IMPROVING THE EFFECTIVENESS AND SUCCESS OF THE PILOT PROGRAM IN
 21 ACHIEVING THE OBJECTIVE.

22 ~~(G)~~ ~~(H)-(G)~~ THE SECRETARY SHALL ADOPT ANY OTHER REGULATIONS
 23 NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION.

24 ~~(H)~~ ~~(I)-(H)~~ A FORMER STATE EMPLOYEE WHO DECLINES AN OFFER OF
 25 EMPLOYMENT WITH A PRIVATE CONTRACTOR UNDER THIS SECTION SHALL BE
 26 CONSIDERED LAID OFF AND SHALL BE ENTITLED TO ALL RIGHTS SPECIFIED UNDER
 27 TITLE 11, SUBTITLE 2 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

28 ~~(I)~~ ~~(J)-(I)~~ IN ACCORDANCE WITH SUBSECTION ~~(I)~~ ~~(K)~~ ~~(J)~~ OF THIS SECTION,
 29 THE PILOT PROGRAM MAY CONDUCT A CONCILIATION CONFERENCE.

30 ~~(J)~~ ~~(K)-(J)~~ (1) IF A COMPLAINT IS FILED TO MODIFY OR ENFORCE A DUTY
 31 OF SUPPORT IN THE CIRCUIT COURT OF A JURISDICTION IN WHICH THE PILOT
 32 PROGRAM IS LOCATED, THE COURT MAY ISSUE A WRIT OF SUMMONS TO ORDER THE
 33 PARTIES TO APPEAR AND TO PRODUCE DOCUMENTS AT A CONCILIATION
 34 CONFERENCE.

35 (2) IF A PARTY FAILS TO APPEAR OR FAILS TO PRODUCE THE
 36 DOCUMENTS REQUIRED UNDER THIS SUBSECTION, A REPRESENTATIVE OF THE
 37 PILOT PROGRAM MAY APPLY, UPON AFFIDAVIT, TO THE COURT FOR A BODY
 38 ATTACHMENT.

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

6 10-119.2.

7 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (2) "CONCILIATION CONFERENCE" MEANS A CONFERENCE CONDUCTED
10 AT A DEMONSTRATION SITE TO PROVIDE AN OPPORTUNITY FOR THE PARTIES TO
11 RESOLVE ISSUES ASSOCIATED WITH AN ACTION TO MODIFY OR ENFORCE A DUTY OF
12 SUPPORT PRIOR TO GOING TO A COURT PROCEEDING.

13 (3) "DEMONSTRATION SITE" MEANS ANY JURISDICTION THAT
14 COMPETES AGAINST PRIVATIZED JURISDICTIONS IN PROVIDING CHILD SUPPORT
15 ENFORCEMENT SERVICES.

16 (B) (1) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE
17 SECRETARY OF HUMAN RESOURCES SHALL ESTABLISH CHILD SUPPORT
18 DEMONSTRATION SITES IN ALL JURISDICTIONS THAT ARE NOT PRIVATIZED
19 JURISDICTIONS, FOR THE PURPOSE OF COMPETING AGAINST A PRIVATIZED
20 JURISDICTION AS ESTABLISHED IN § 10-119.1 OF THIS SUBTITLE.

21 (2) THE SECRETARY SHALL ESTABLISH AT LEAST:

22 (I) FOUR DEMONSTRATION SITES BY JULY 1, 2003, AS FOLLOWS:

- 23 1. ONE IN CALVERT COUNTY;
24 2. ONE IN HOWARD COUNTY;
25 3. ONE IN MONTGOMERY COUNTY; AND
26 4. ONE IN WASHINGTON COUNTY;

27 (II) SEVEN DEMONSTRATION SITES BY JULY 1, 2005;

28 (III) ELEVEN DEMONSTRATION SITES BY JULY 1, 2006;

29 (IV) SIXTEEN DEMONSTRATION SITES BY JULY 1, 2007; AND

30 (V) TWENTY-TWO DEMONSTRATION SITES BY JULY 1, 2008.

31 (3) THE SECRETARY MAY ESTABLISH DEMONSTRATION SITES AT A RATE
32 FASTER THAN REQUIRED BY PARAGRAPH (2) OF THIS SUBSECTION IF SUFFICIENT
33 FUNDS ARE AVAILABLE IN THE BUDGET.

1 (4) WHEN ESTABLISHING DEMONSTRATION SITES UNDER PARAGRAPH
2 (2)(II) THROUGH (IV) OF THIS SUBSECTION, THE SECRETARY SHALL CHOOSE
3 JURISDICTIONS THAT ARE GEOGRAPHICALLY DIVERSE.

4 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE SECRETARY
5 SHALL APPOINT A DIRECTOR OF CHILD SUPPORT SERVICES IN A DEMONSTRATION
6 SITE WHO SHALL REPORT DIRECTLY TO THE EXECUTIVE DIRECTOR OF THE CHILD
7 SUPPORT ENFORCEMENT ADMINISTRATION OF THE DEPARTMENT.

8 (D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE SECRETARY
9 SHALL HAVE SOLE AUTHORITY OVER THE CHILD SUPPORT ENFORCEMENT
10 FUNCTIONS IN A DEMONSTRATION SITE, 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 IN~~
18 ACCORDANCE WITH § 10-115 OF THIS SUBTITLE; AND

19 (8) ESTABLISHING CONTRACTUAL AGREEMENTS WITH PRIVATE OR
20 PUBLIC ENTITIES TO PROVIDE CHILD SUPPORT SERVICES.

21 (E) NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND FOR THE
22 PURPOSE OF CARRYING OUT THE PROVISIONS OF THIS SECTION, THE SECRETARY
23 SHALL HAVE THE AUTHORITY TO SEVER CONTRACTUAL AGREEMENTS WITH A
24 STATE'S ATTORNEY AND HIRE PRIVATE COUNSEL TO PROVIDE LEGAL
25 REPRESENTATION FOR THE CHILD SUPPORT ENFORCEMENT ADMINISTRATION.

26 (F) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ALL
27 EMPLOYEES HIRED IN A DEMONSTRATION SITE AFTER ITS DESIGNATION AS A
28 DEMONSTRATION SITE SHALL BE IN THE MANAGEMENT SERVICE OR SPECIAL
29 APPOINTMENTS IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

30 (2) IF A POSITION IN A DEMONSTRATION SITE IS HELD BY A CLASSIFIED
31 SERVICE EMPLOYEE PRIOR TO ITS DESIGNATION AS A DEMONSTRATION SITE, THE
32 POSITION REMAINS A CLASSIFIED SERVICE POSITION OR ITS EQUIVALENT IN THE
33 STATE PERSONNEL MANAGEMENT SYSTEM UNTIL THE POSITION BECOMES VACANT,
34 AT WHICH TIME THE POSITION SHALL BECOME A MANAGEMENT SERVICE OR
35 SPECIAL APPOINTMENT POSITION.

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

4 (H) IN ACCORDANCE WITH SUBSECTION (I) OF THIS SECTION, A
5 DEMONSTRATION SITE MAY CONDUCT A CONCILIATION CONFERENCE.

6 (I) (1) IF A COMPLAINT IS FILED TO MODIFY OR ENFORCE A DUTY OF
7 SUPPORT IN THE CIRCUIT COURT OF A JURISDICTION IN WHICH A DEMONSTRATION
8 SITE IS LOCATED, THE COURT MAY ISSUE A WRIT OF SUMMONS TO ORDER THE
9 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 SITE MAY APPLY, UPON AFFIDAVIT, TO THE COURT FOR A BODY
14 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 (J) 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 the term of the first
23 privatization contract negotiated between the Department of Human Resources and a
24 private contractor after the effective date of this Act shall be ~~3 years~~ 4 years and 3
25 months, with the option for up to two 1-year extensions.

26 SECTION 3. AND BE IT FURTHER ENACTED, That a State employee who, on
27 the effective date of this Act, is a nontemporary employee of the Child Support
28 Enforcement Administration in the Department of Human Resources and is working
29 for the private contractor under contract with the Department on the effective date of
30 this Act, shall remain a nontemporary employee of the Administration until the
31 termination of this Act, unless the employee accepts employment with another private
32 contractor, as provided under § 10-119.1(d)(1)(v) of the Family Law Article, as enacted
33 by Section 1 of this Act.

34 SECTION ~~3. 4.~~ AND BE IT FURTHER ENACTED, That this Act shall take
35 effect June 1, 2003. It shall remain effective for a period of ~~5 years and 1 month~~ 6
36 years and 4 months and, at the end of ~~June 30, 2008~~ September 30, 2009, with no
37 further action required by the General Assembly, this Act shall be abrogated and of no
38 further force and effect.

