

Department of Legislative Services  
Maryland General Assembly  
2003 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 107

(Delegate Jones)

Judiciary

Judicial Proceedings

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Child Support Enforcement - Earnings Withholding

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This emergency bill requires a court to order child support payments through the State Disbursement Unit in all cases in which the court orders immediate service of an earnings withholding order.

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Fiscal Summary

**State Effect:** Special fund revenues would increase to the extent that the bill facilitates the collection of child support. Enactment of the bill may prevent the loss of a portion or all of the federal Temporary Assistance to Needy Families (TANF) block grant (\$229.1 million), child support enforcement cooperative reimbursement payments (\$66.8 million), and cooperative reimbursement and incentive payments to the Judiciary for child support enforcement activities (\$2.6 million).

**Local Effect:** Potential loss of up to \$2.5 million in cooperative reimbursement grants from the Judiciary to provide child support services through the clerks of the court. Federal incentive payments of \$150,000, which provide child support initiatives in local offices, could also be eliminated.

**Small Business Effect:** Minimal.

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Analysis

**Current Law:** Except as otherwise provided, a court must immediately authorize service of an earnings withholding order when a support order or modification is passed on or after April 1, 1991, the case is being enforced by CSEA, and the recipient or CSEA

requests service of an earnings withholding order; or when the Department of Health and Mental Hygiene requests service of an earnings withholding order for court-ordered medical support.

Except as otherwise provided, regardless of whether payments are in arrears, a court must immediately authorize service of an earnings withholding order on the effective date of the order for all child support orders issued in the State on or after January 1, 1994. When a court orders immediate service of an earnings withholding order on or after July 1, 1994, the court must order payments through the State disbursement unit if CSEA is providing support services, or must order payments directly to the obligee's bank account. Also, a party may request, and the court may order, the employer to send payments directly to the obligee. However, if a party shows and the court finds there is good cause not to require immediate earnings withholding or the court approves an alternative payment method provided through a written agreement by the parties, the court may not authorize the immediate service of an earnings withholding order. If a court does authorize immediate service of an earnings withholding order, the court must immediately cause a copy of the earnings withholding order to be served on any employer of the obligor.

An earnings withholding order or an earnings withholding notice sent to the obligor's employer must be a separate document and not include other orders or pleadings. The order or notice must include only the following information:

- the amount to be withheld from the obligor's earnings and an explanation of federal limitations;
- subject to further orders of the tribunal, the employer must withhold the specified amount on a regular and continuing basis beginning with the next pay period after receipt of the earnings withholding order or notice;
- the employer may deduct and retain an additional \$2 for each deduction made pursuant to an earnings withholding order or notice;
- the net amount withheld must be sent promptly to the State Disbursement Unit or the recipient specified in the order; and
- any other information that the employer needs to comply with an earnings withholding order or notice.

On receipt of a copy of an earnings withholding order or notice, and beginning with the next pay period after receipt, an employer must deduct the specified amount from the obligor's earnings on a regular basis and send the deducted net amount directly to the State Disbursement Unit or the recipient within seven days after the day the earnings are paid to the obligor, not including weekends or legal holidays.

**Background:** Federal welfare reform legislation, known as the Personal Responsibility and Work Opportunity Reconciliation Act, was passed in 1996. In addition to significantly changing the administration of welfare, it also contained numerous provisions changing the administration of child support enforcement. The federal government requires State compliance with all the federal child support enforcement provisions. The federal sanction for noncompliance is loss of up to all of the State block grant for TANF and the grant and incentive payments provided for the State child support enforcement program.

Federal provisions for the Maryland child support enforcement program require that earnings withholding orders direct that all earnings withheld from an obligor be sent directly to the State Disbursement Unit for distribution. Under Maryland law, a court is authorized to order an employer to pay withheld earnings directly to a custodial parent or to a custodial parent's bank account.

In October 2002, DHR received an official notice of intent to disapprove Maryland's "IV-D" plan from the U.S. Department of Health and Human Services (DHHS). This plan outlines how the State will provide child support enforcement services. The State was given an opportunity for a predecision hearing and that hearing was requested in December. The notice of intent to disapprove the plan is due, in part, to Maryland law which allows a court to issue an earnings withholding order directly to a custodial parent's bank account, instead of the State Disbursement Unit. There were also other noncompliance issues cited. DHHS has stated that disapproval of Maryland's IV-D plan could mean that the federal government could withhold the State's entire allotment for the TANF program (\$229.1 million in federal fiscal 2002) and the entire cooperative reimbursement payments for child support services (\$66.8 million). A condition of eligibility for TANF block grants is that Maryland operate a child support enforcement program under an approved IV-D plan.

The Judiciary also advises that it receives federal funding for some child support enforcement activities. This funding could also be at risk if Maryland's IV-D program remains out of compliance. The Judiciary has an arrangement with DHR to provide some child support enforcement services through the clerks of the court and masters in the family services program. Judiciary receives \$2.5 million in federal cooperative reimbursement funds to pay 66% of the salaries of clerks of court and masters who provide those child support services. The remaining 34% of these salaries is financed by general funds. If the federal funds were withheld, these salaries would still be paid, but additional general funds would be needed.

The Administrative Office of the Courts (AOC) began receiving federal incentive payments for certain child support initiatives in October 2001. AOC currently receives about \$150,000 in federal incentive funds. The monies are used to provide training, improve data management, and to provide new programs such as the fatherhood pilot programs that currently exist in two jurisdictions. These programs are funded entirely with federal funds, and would likely not continue if the incentive funds are withheld.

The provisions in this bill repealing the requirement for service of notice by certified mail are not required by federal child support provisions.

**State Fiscal Effect:** Special fund revenues could increase to the extent that the provisions in 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.

DHR advises that if the provisions of this bill relating to earnings withholding notices are not enacted, the federal government could rescind the State's entire federal grant for TANF, which totals about \$229.1 million, and also rescind the State's entire federal grant for child support enforcement services, which totals \$66.8 million. The formal DHHS notice of intent to disapprove the Maryland plan, as discussed above, indicates that the sanction of withholding the entire TANF block grant and child support enforcement cooperative reimbursement payments is being given serious consideration.

The Judiciary advises that if DHHS disapproves the State's IV-D plan and the full complement of child support enforcement funding is withheld, then that would include \$2.5 million in federal cooperative reimbursement grants that the Judiciary receives for child support functions and \$150,000 in federal incentive payments for child support initiatives.

**Local Fiscal Effect:** Federal funding for child support services and child support initiatives received by the Judiciary is provided in the form of grants to clerks of court offices and local family services programs. Disapproval of the State IV-D plan could mean withholding of up to \$2.5 million in grants for child support services in local offices. It could also mean withholding \$150,000 in grants to local offices for training, data management, fatherhood programs, and other child support enforcement initiatives.

## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Human Resources, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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