
By: **Chairman, Judiciary Committee (By Request - Departmental - Human Resources)**

Introduced and read first time: January 25, 2006

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Child Support Enforcement - Affidavit of Support**

3 FOR the purpose of establishing an affidavit of support; providing for the form,
4 contents, execution, and effect of an affidavit of support; requiring the Child
5 Support Enforcement Administration to set the amount of support in accordance
6 with the child support guidelines; specifying the authority of the Administration
7 or a court to enforce an affidavit of support; defining certain terms; providing for
8 a delayed effective date; and generally relating to child support enforcement.

9 BY repealing and reenacting, with amendments,

10 Article - Family Law

11 Section 10-302

12 Annotated Code of Maryland

13 (2004 Replacement Volume and 2005 Supplement)

14 BY adding to

15 Article - Family Law

16 Section 10-1A-01 through 10-1A-03, inclusive, to be under the new subtitle

17 "Subtitle 1A. Affidavit of Support"

18 Annotated Code of Maryland

19 (2004 Replacement Volume and 2005 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article - Family Law**

23 10-302.

24 The circuit courts, AND THE ADMINISTRATION, IN THE CONTEXT OF AN
25 AFFIDAVIT OF SUPPORT, are the tribunals of this State.

SUBTITLE 1A. AFFIDAVIT OF SUPPORT.

10-1A-01.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "CHILD SUPPORT ORDER" MEANS:

(1) ANY SUPPORT ORDER FOR A CHILD ISSUED BY A TRIBUNAL; OR

(2) AN AFFIDAVIT OF SUPPORT FILED WITH THE COURT.

(C) "PARTY" MEANS:

(1) THE LEGAL PARENT OF A CHILD;

(2) A CARETAKER WITH WHOM THE CHILD RESIDES; OR

(3) THE ADMINISTRATION WHEN:

(I) IT HAS ACCEPTED AN ASSIGNMENT OF SUPPORT UNDER ARTICLE 88A, § 50(B)(2) OF THE CODE; OR

(II) THE CHILD HAS BEEN PLACED IN THE CARE AND CUSTODY OF THE STATE.

(D) "TRIBUNAL" HAS THE MEANING STATED IN § 10-301(X) OF THIS TITLE.

10-1A-02.

(A) (1) AN AFFIDAVIT OF SUPPORT MAY BE EXECUTED IN THE MANNER PROVIDED UNDER THIS SECTION IF:

(I) A PARTY IS RECEIVING CHILD SUPPORT ENFORCEMENT SERVICES UNDER TITLE IV, PART D, OF THE SOCIAL SECURITY ACT;

(II) PATERNITY OF THE CHILD HAS BEEN ESTABLISHED;

(III) A SUPPORT CONFERENCE HAS BEEN CONDUCTED IN WHICH THE ADMINISTRATION DETERMINED THE AMOUNT OF SUPPORT IN ACCORDANCE WITH THE CHILD SUPPORT GUIDELINES PROVIDED IN TITLE 12, SUBTITLE 2 OF THIS ARTICLE; AND

(IV) THE SUPPORT CONFERENCE RESULTED IN AN AGREEMENT BY THE PARTIES.

(2) (I) THE ADMINISTRATION SHALL SET THE AMOUNT OF THE SUPPORT OBLIGATION IN ACCORDANCE WITH THE GUIDELINES.

1 (II) UNLESS THE ADMINISTRATION DETERMINES THAT
2 APPLICATION OF THE GUIDELINES WOULD BE UNJUST OR INAPPROPRIATE IN A
3 PARTICULAR CASE, THE AMOUNT SPECIFIED IN THE GUIDELINES SHALL APPLY.

4 (III) IN DETERMINING WHETHER APPLICATION OF THE GUIDELINES
5 IS UNJUST OR INAPPROPRIATE, THE ADMINISTRATION MAY CONSIDER THE FACTORS
6 STATED IN § 12-202 OF THIS ARTICLE.

7 (IV) IF THE ADMINISTRATION FINDS THAT APPLICATION OF THE
8 GUIDELINES IS UNJUST OR INAPPROPRIATE IN A PARTICULAR CASE, THE
9 ADMINISTRATION SHALL MAKE A WRITTEN FINDING ON THE RECORD STATING THE
10 REASONS FOR DEPARTING FROM THE GUIDELINES.

11 (V) THE ADMINISTRATION'S FINDING SHALL STATE:

12 1. THE AMOUNT OF CHILD SUPPORT THAT WOULD HAVE
13 BEEN REQUIRED UNDER THE GUIDELINES;

14 2. HOW THE AFFIDAVIT OF SUPPORT VARIES FROM THE
15 GUIDELINES;

16 3. HOW THE FINDING SERVES THE BEST INTERESTS OF THE
17 CHILD; AND

18 4. IN CASES IN WHICH ITEMS OF VALUE ARE CONVEYED
19 INSTEAD OF A PORTION OF THE SUPPORT PRESUMED UNDER THE GUIDELINES, THE
20 ESTIMATED VALUE OF THE ITEMS CONVEYED.

21 (B) AN AFFIDAVIT OF SUPPORT SHALL BE COMPLETED ON A STANDARDIZED
22 FORM DEVELOPED BY THE ADMINISTRATION.

23 (C) (1) THE COMPLETED AFFIDAVIT OF SUPPORT FORM SHALL CONTAIN:

24 (I) A STATEMENT THAT THE EXECUTED AFFIDAVIT OF SUPPORT IS
25 A LEGAL DOCUMENT AND CONSTITUTES A LEGAL FINDING OF A SUPPORT
26 OBLIGATION;

27 (II) THE DATE OF THE SIGNED AFFIDAVIT OF SUPPORT;

28 (III) THE FULL NAMES OF THE PARTIES;

29 (IV) THE FULL NAME AND BIRTH DATE OF EACH CHILD FOR WHOM
30 SUPPORT IS TO BE PAID;

31 (V) THE SUPPORT ORDER AMOUNT, INCLUDING AN AMOUNT FOR
32 CURRENT SUPPORT, AND AN AMOUNT FOR ARREARS, IF APPROPRIATE;

33 (VI) THE FREQUENCY OF CHILD SUPPORT TO BE PAID, INCLUDING
34 THE PAYMENT DUE DATE;

1 (VII) A PROVISION FOR MAKING CHILD SUPPORT PAYMENTS
2 PAYABLE TO THE STATE DISBURSEMENT UNIT;

3 (VIII) A PROVISION FOR MEDICAL SUPPORT;

4 (IX) A PROVISION FOR IMMEDIATE EARNINGS WITHHOLDING;

5 (X) A STATEMENT THAT IF THE OBLIGOR BECOMES DELINQUENT
6 IN FULFILLING THE CHILD SUPPORT OBLIGATION, ANY ENFORCEMENT REMEDY
7 PROVIDED IN ACCORDANCE WITH STATE AND FEDERAL LAW MAY BE APPLIED;

8 (XI) A STATEMENT THAT IT IS THE RESPONSIBILITY OF EACH PARTY
9 UNDER THE AFFIDAVIT OF SUPPORT TO ADVISE THE ADMINISTRATION OF ANY
10 CHANGE OF ADDRESS, EMPLOYMENT, OR MEDICAL SUPPORT;

11 (XII) A STATEMENT THAT THE PROVISIONS OF THE AFFIDAVIT OF
12 SUPPORT ARE SUBJECT TO REVIEW BY THE ADMINISTRATION FOR POSSIBLE
13 MODIFICATION ON REQUEST OF ANY PARTY;

14 (XIII) A STATEMENT THAT THE PROVISIONS OF THE AFFIDAVIT OF
15 SUPPORT REMAIN IN EFFECT UNTIL THE FIRST OF THE FOLLOWING EVENTS
16 OCCURS:

17 1. THE CHILD BECOMES AN ADULT;

18 2. THE CHILD DIES;

19 3. THE CHILD MARRIES; OR

20 4. THE CHILD BECOMES SELF-SUPPORTING;

21 (XIV) A STATEMENT THAT THE PROVISIONS OF THE AFFIDAVIT OF
22 SUPPORT REMAIN IN EFFECT UNTIL SUPERSEDED BY:

23 1. A COURT ORDER; OR

24 2. A SUBSEQUENTLY EXECUTED AFFIDAVIT OF SUPPORT;

25 (XV) ANY INFORMATION THAT THE ADMINISTRATION CONSIDERS
26 APPROPRIATE; AND

27 (XVI) THE SIGNATURES OF ALL PARTIES AND THE DATE OF THE
28 SIGNATURES.

29 (2) BEFORE COMPLETING AN AFFIDAVIT OF SUPPORT FORM, THE
30 PARTIES SHALL BE ADVISED ORALLY AND IN WRITING OF THE LEGAL
31 CONSEQUENCES OF EXECUTING THE AFFIDAVIT AND OF THE RIGHT TO SEEK LEGAL
32 COUNSEL.

33 (3) THE ADMINISTRATION SHALL PROVIDE EACH PARTY WITH A COPY
34 OF THE EXECUTED AFFIDAVIT OF SUPPORT.

1 (D) AN EXECUTED AFFIDAVIT OF SUPPORT CONSTITUTES A LEGAL FINDING
2 OF A SUPPORT OBLIGATION, SUBJECT TO THE RIGHT OF ANY PARTY TO:

3 (1) RESCIND THE AFFIDAVIT IN WRITING TO THE ADMINISTRATION
4 WITHIN 60 DAYS AFTER EXECUTION OF THE AFFIDAVIT; OR

5 (2) CHALLENGE THE AFFIDAVIT OF SUPPORT IN COURT ON THE BASIS
6 THAT THE AFFIDAVIT OF SUPPORT IS NOT IN ACCORDANCE WITH THE CHILD
7 SUPPORT GUIDELINES.

8 (E) THE ADMINISTRATION SHALL FILE AN AFFIDAVIT OF SUPPORT WITH THE
9 CLERK OF A CIRCUIT COURT WITHIN 30 DAYS AFTER EXECUTION OF THE AFFIDAVIT.
10 10-1A-03.

11 (A) (1) AN AFFIDAVIT OF SUPPORT FILED WITH THE COURT UNDER THIS
12 SUBTITLE CONSTITUTES A LEGAL FINDING OF SUPPORT.

13 (2) THE ADMINISTRATION SHALL ENFORCE AND COLLECT THE SUPPORT
14 OBLIGATION, INCLUDING ANY ARREARAGES, FROM THE DATE OF EXECUTION.

15 (B) THE AFFIDAVIT OF SUPPORT SHALL HAVE ALL OF THE FORCE, EFFECT,
16 AND ATTRIBUTES OF A CHILD SUPPORT ORDER ISSUED BY A TRIBUNAL, INCLUDING
17 THE ABILITY TO BE ENFORCED BY ANY AND ALL ENFORCEMENT REMEDIES
18 AVAILABLE TO THE ADMINISTRATION TO ENFORCE A CHILD SUPPORT ORDER ISSUED
19 BY A TRIBUNAL, INCLUDING CONTEMPT OF COURT PROCEEDINGS.

20 (C) (1) IF ANY PARTY TO THE AFFIDAVIT OF SUPPORT PRESENTS EVIDENCE
21 TO THE ADMINISTRATION OF A MATERIAL CHANGE IN CIRCUMSTANCES SINCE THE
22 ENTRY OF THE LAST CHILD SUPPORT ORDER, THE PARTIES MAY EXECUTE AN
23 AFFIDAVIT OF SUPPORT IN ACCORDANCE WITH THE MARYLAND CHILD SUPPORT
24 GUIDELINES.

25 (2) IF THERE IS A PRE-EXISTING CHILD SUPPORT ORDER, THE
26 SUBSEQUENTLY EXECUTED AFFIDAVIT OF SUPPORT SHALL SUPERSEDE THE ORDER
27 UNLESS AND UNTIL OVERRULED BY A TRIBUNAL.

28 (D) ALL COURTS IN THIS STATE SHALL RECOGNIZE AN AFFIDAVIT OF
29 SUPPORT ISSUED BY THE ADMINISTRATION AS A CHILD SUPPORT ORDER.

30 (E) AN EXECUTED AFFIDAVIT OF SUPPORT DOES NOT PRECLUDE ANY
31 SUBSEQUENT PROCEEDINGS UNDER THIS ARTICLE.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
33 effect January 1, 2007.