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

Introduced and read first time: January 25, 2006

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 14, 2006

CHAPTER _____

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, except under certain circumstances;
 7 authorizing the Administration to consider certain factors in making a certain
 8 determination; requiring the Administration to make a certain written finding
 9 on the record under certain circumstances; requiring that the parties to an
 10 affidavit of support be advised in a certain manner of the legal consequences of
 11 executing the affidavit and of the right to seek legal counsel; establishing the
 12 right of any party to an affidavit of support to rescind or challenge the affidavit
 13 under certain circumstances; requiring the Administration to file an affidavit of
 14 support with the clerk of a circuit court for approval by the court within a
 15 certain time period; specifying the authority of the Administration or a court to
 16 enforce an affidavit of support; authorizing a certain party who presents certain
 17 evidence to the Administration to execute an affidavit of support; establishing
 18 that a subsequently executed affidavit of support supersedes a pre-existing
 19 child support order, except under certain circumstances; requiring the courts in
 20 this State to recognize an affidavit of support issued by the Administration as a
 21 child support order; establishing that an executed affidavit of support does not
 22 preclude certain subsequent proceedings; defining certain terms; providing for a
 23 delayed effective date; and generally relating to child support enforcement.

24 BY repealing and reenacting, with amendments,

25 Article - Family Law

26 Section 10-302

1 Annotated Code of Maryland
2 (2004 Replacement Volume and 2005 Supplement)

3 BY adding to
4 Article - Family Law
5 Section 10-1A-01 through 10-1A-03, inclusive, to be under the new subtitle
6 "Subtitle 1A. Affidavit of Support"
7 Annotated Code of Maryland
8 (2004 Replacement Volume and 2005 Supplement)

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

11 **Article - Family Law**

12 10-302.

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

15 SUBTITLE 1A. AFFIDAVIT OF SUPPORT.

16 10-1A-01.

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

19 (B) "CHILD SUPPORT ORDER" MEANS:

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

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

22 (C) "PARTY" MEANS:

23 (1) THE LEGAL PARENT OF A CHILD;

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

25 (3) THE ADMINISTRATION WHEN:

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

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

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

1 10-1A-02.

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

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

6 (II) PATERNITY OF THE CHILD HAS BEEN ESTABLISHED;

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

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

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

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

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

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

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

26 1. THE AMOUNT OF CHILD SUPPORT THAT WOULD HAVE
27 BEEN REQUIRED UNDER THE GUIDELINES;

28 2. HOW THE AFFIDAVIT OF SUPPORT VARIES FROM THE
29 GUIDELINES;

30 3. HOW THE FINDING SERVES THE BEST INTERESTS OF THE
31 CHILD; AND

32 4. IN CASES IN WHICH ITEMS OF VALUE ARE CONVEYED
33 INSTEAD OF A PORTION OF THE SUPPORT PRESUMED UNDER THE GUIDELINES, THE
34 ESTIMATED VALUE OF THE ITEMS CONVEYED.

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

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

2 (I) A STATEMENT THAT THE EXECUTED AFFIDAVIT OF SUPPORT IS
3 A LEGAL DOCUMENT AND CONSTITUTES A LEGAL FINDING OF A SUPPORT
4 OBLIGATION;

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

6 (III) THE FULL NAMES OF THE PARTIES;

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

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

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

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

15 (VIII) A PROVISION FOR MEDICAL SUPPORT;

16 (IX) A PROVISION FOR IMMEDIATE EARNINGS WITHHOLDING;

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

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

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

26 (XIII) A STATEMENT THAT THE PROVISIONS OF THE AFFIDAVIT OF
27 SUPPORT REMAIN IN EFFECT UNTIL THE FIRST OF THE FOLLOWING EVENTS
28 OCCURS:

29 1. THE CHILD BECOMES AN ADULT;

30 2. THE CHILD DIES;

31 3. THE CHILD MARRIES; OR

32 4. THE CHILD BECOMES SELF-SUPPORTING;

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

3 1. A COURT ORDER; OR

4 2. A SUBSEQUENTLY EXECUTED AFFIDAVIT OF SUPPORT;

5 (XV) ANY INFORMATION THAT THE ADMINISTRATION CONSIDERS
6 APPROPRIATE; AND

7 (XVI) THE SIGNATURES OF ALL PARTIES AND THE DATE OF THE
8 SIGNATURES.

9 (2) BEFORE COMPLETING AN AFFIDAVIT OF SUPPORT FORM, THE
10 PARTIES SHALL BE ADVISED ORALLY AND IN WRITING OF THE LEGAL
11 CONSEQUENCES OF EXECUTING THE AFFIDAVIT AND OF THE RIGHT TO SEEK LEGAL
12 COUNSEL.

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

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

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

19 (2) CHALLENGE THE AFFIDAVIT OF SUPPORT IN COURT ON THE BASIS
20 OF FRAUD, DURESS, OR MATERIAL MISTAKE OF FACT OR THAT THE AFFIDAVIT OF
21 SUPPORT IS NOT IN ACCORDANCE WITH THE CHILD SUPPORT GUIDELINES.

22 (E) WITHIN 30 DAYS AFTER EXPIRATION OF THE 60-DAY RECISSION PERIOD
23 SPECIFIED IN SUBSECTION (D)(1) OF THIS SECTION, THE ADMINISTRATION SHALL
24 FILE AN AFFIDAVIT OF SUPPORT WITH THE CLERK OF A CIRCUIT COURT WITHIN 30
25 DAYS AFTER EXECUTION OF THE AFFIDAVIT FOR APPROVAL BY THE COURT.

26 10-1A-03.

27 (A) ~~(1) AN AFFIDAVIT OF SUPPORT FILED WITH THE COURT UNDER THIS~~
28 ~~SUBTITLE CONSTITUTES A LEGAL FINDING OF SUPPORT.~~

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

31 (B) THE AFFIDAVIT OF SUPPORT SHALL HAVE ALL OF THE FORCE, EFFECT,
32 AND ATTRIBUTES OF A CHILD SUPPORT ORDER ISSUED BY A TRIBUNAL, INCLUDING
33 THE ABILITY TO BE ENFORCED BY ANY AND ALL ENFORCEMENT REMEDIES
34 AVAILABLE TO THE ADMINISTRATION TO ENFORCE A CHILD SUPPORT ORDER ISSUED
35 BY A TRIBUNAL, INCLUDING CONTEMPT OF COURT PROCEEDINGS.

1 (C) (1) IF ANY PARTY TO THE AFFIDAVIT OF SUPPORT PRESENTS EVIDENCE
2 TO THE ADMINISTRATION OF A MATERIAL CHANGE IN CIRCUMSTANCES SINCE THE
3 ENTRY OF THE LAST CHILD SUPPORT ORDER, THE PARTIES MAY EXECUTE AN
4 AFFIDAVIT OF SUPPORT IN ACCORDANCE WITH THE MARYLAND CHILD SUPPORT
5 GUIDELINES.

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

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

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

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