

(PRE-FILED)

By: **Senator Stone**

Requested: November 15, 2005

Introduced and read first time: January 11, 2006

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Child Support Enforcement Administration - Service of Notices - Time for**
3 **Appeal**

4 FOR the purpose of altering the manner in which the Child Support Enforcement
5 Administration is required to send certain notices to certain obligors; specifying
6 the time period within which an obligor may ask the Administration to
7 investigate a certain arrearage; altering the time within which an obligor may
8 appeal the proposed transfer of a certain lottery prize to the Administration;
9 making certain conforming changes; and generally relating to child support
10 enforcement procedures.

11 BY repealing and reenacting, with amendments,
12 Article - Family Law
13 Section 10-108.3(e)(1), 10-113(d), 10-113.1(c), (e), and (f), 10-119(c), and
14 10-124(c) and (d)
15 Annotated Code of Maryland
16 (2004 Replacement Volume and 2005 Supplement)

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

19 **Article - Family Law**

20 10-108.3.

21 (e) (1) (I) Within 2 days after the Administration has received the return
22 receipt from the notice sent to the financial institution under subsection (c) of this
23 section, the Administration shall promptly send [a] notice to the obligor[.].

24 (II) THE FIRST NOTICE SHALL BE SERVED by:

25 1. HAND DELIVERY;

1 2. [regular] CERTIFIED mail, RETURN RECEIPT
2 REQUESTED, to the obligor's last known address, or if the home address is not known,
3 to the place of last known employment; OR

4 3. ELECTRONIC MAIL, RETURN RECEIPT REQUESTED.

5 (III) IF THE ADMINISTRATION IS UNABLE TO OBTAIN SERVICE ON
6 THE OBLIGOR UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE SECOND
7 NOTICE SHALL BE SENT BY FIRST-CLASS MAIL TO THE OBLIGOR'S LAST KNOWN
8 ADDRESS, OR IF THE HOME ADDRESS IS NOT KNOWN, TO THE PLACE OF LAST KNOWN
9 EMPLOYMENT.

10 10-113.

11 (d) (1) [On] WITHIN 30 DAYS AFTER receipt of notice of certification, any
12 obligor who disputes the existence or amount of the arrearage may ask the
13 Administration to investigate the arrearage.

14 (2) On receipt of a request for investigation from the obligor, the
15 Administration shall:

16 (i) conduct an investigation as to the accuracy of the reported
17 arrearage; and

18 (ii) if the Administration finds that there is an error, correct the
19 amount of the reported arrearage or withdraw the certification.

20 10-113.1.

21 (c) If an obligor who has been certified as an obligor wins a lottery prize to be
22 paid by check directly by the State Lottery Agency, the State Lottery Agency shall
23 send a notice to the obligor that:

24 (1) the obligor has won a prize to be paid by check directly by the State
25 Lottery Agency;

26 (2) the State Lottery Agency has received certification from the Child
27 Support Enforcement Administration of the obligor's child support arrearage in the
28 amount specified;

29 (3) subsection (d) of this section requires the State Lottery Agency to
30 withhold the prize to pay it towards the obligor's support arrearage;

31 (4) the State Lottery Agency proposes to transfer the prize, or that part
32 of it which is equal to the support arrearage, to the Administration if no appeal is filed
33 within [15] 30 days;

34 (5) the obligor may appeal to the Administration if the obligor disputes
35 the existence or the amount of the arrearage;

1 (6) if the obligor appeals to the Administration, the prize will be
2 distributed as the Administration directs; and

3 (7) if no appeal is filed within [15] 30 days, the prize, or that part of it
4 equal to the support arrearage, will be transferred to the Administration.

5 (e) Upon receipt of a notice from the State Lottery Agency any obligor who
6 disputes the existence or amount of the arrearage may appeal the proposed transfer
7 within [15] 30 days of the date of the notice to the Administration.

8 (f) If no appeal is filed within [15] 30 days, the State Lottery Agency shall
9 transfer the amount of the prize withheld to the Administration.

10 10-119.

11 (c) (1) Before supplying any information to the Motor Vehicle
12 Administration under this section, the Administration shall:

13 (i) send written notice of the proposed action to the obligor,
14 including notice of the obligor's right to request an investigation on any of the
15 following grounds:

16 1. the information regarding the reported arrearage is
17 inaccurate;

18 2. suspension of the obligor's license or privilege to drive
19 would be an impediment to the obligor's current or potential employment; or

20 3. suspension of the obligor's license or privilege to drive
21 would place an undue hardship on the obligor because of the obligor's:

22 A. documented disability resulting in a verified inability to
23 work; or

24 B. inability to comply with the court order; and

25 (ii) give the obligor a reasonable opportunity to request an
26 investigation of the proposed action of the Administration.

27 (2) (I) THE FIRST NOTICE UNDER PARAGRAPH (1) OF THIS
28 SUBSECTION SHALL BE SERVED BY:

29 1. HAND DELIVERY;

30 2. CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE
31 OBLIGOR'S LAST KNOWN ADDRESS, OR IF THE HOME ADDRESS IS NOT KNOWN, TO
32 THE PLACE OF LAST KNOWN EMPLOYMENT; OR

33 3. ELECTRONIC MAIL, RETURN RECEIPT REQUESTED.

1 (II) IF THE ADMINISTRATION IS UNABLE TO OBTAIN SERVICE ON
2 THE OBLIGOR UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE SECOND NOTICE
3 SHALL BE SENT BY FIRST-CLASS MAIL TO THE OBLIGOR'S LAST KNOWN ADDRESS, OR
4 IF THE HOME ADDRESS IS NOT KNOWN, TO THE PLACE OF LAST KNOWN
5 EMPLOYMENT.

6 [(2)] (3) (i) Upon receipt of a request for investigation from the
7 obligor, the Administration shall conduct an investigation to determine if any of the
8 grounds under paragraph (1)(i) of this subsection exist.

9 (ii) The Administration shall:

10 1. send a copy of the obligor's request for an investigation to
11 the obligee by first-class mail;

12 2. give the obligee a reasonable opportunity to respond; and

13 3. consider the obligee's response.

14 (iii) Upon completion of the investigation, the Administration shall
15 notify the obligor of the results of the investigation and the obligor's right to appeal to
16 the Office of Administrative Hearings.

17 [(3)] (4) (i) An appeal under this section shall be conducted in
18 accordance with Title 10, Subtitle 2 of the State Government Article.

19 (ii) An appeal shall be made in writing and shall be received by the
20 Office of Administrative Hearings within 20 days after the notice to the obligor of the
21 results of the investigation.

22 [(4)] (5) If, after the investigation or appeal to the Office of
23 Administrative Hearings, the Administration finds that one of the grounds under
24 paragraph (1)(i) of this subsection exists, the Administration may not send any
25 information about the obligor to the Motor Vehicle Administration.

26 [(5)] (6) The Administration may not send any information about an
27 obligor to the Motor Vehicle Administration if:

28 (i) the Administration reaches an agreement with the obligor
29 regarding a scheduled payment of the obligor's child support arrearage or a court
30 issues an order for a scheduled payment of the child support arrearage; and

31 (ii) the obligor is complying with the agreement or court order.

32 10-124.

33 (c) (1) When the Administration serves an employer with an earnings
34 withholding notice under this section, the Administration shall send to the obligor, by
35 first-class mail, at the obligor's last known home address and place of employment:

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

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

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

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

11 (2) (I) THE FIRST NOTICE UNDER PARAGRAPH (1) OF THIS
12 SUBSECTION SHALL BE SERVED BY:

13 1. HAND DELIVERY;

14 2. CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE
15 OBLIGOR'S LAST KNOWN ADDRESS, OR IF THE HOME ADDRESS IS NOT KNOWN, TO
16 THE PLACE OF LAST KNOWN EMPLOYMENT; OR

17 3. ELECTRONIC MAIL, RETURN RECEIPT REQUESTED.

18 (II) IF THE ADMINISTRATION IS UNABLE TO OBTAIN SERVICE ON
19 THE OBLIGOR UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE SECOND NOTICE
20 SHALL BE SENT BY FIRST-CLASS MAIL TO THE OBLIGOR'S LAST KNOWN ADDRESS, OR
21 IF THE HOME ADDRESS IS NOT KNOWN, TO THE PLACE OF LAST KNOWN
22 EMPLOYMENT.

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

25 (1) whether an arrearage existed;

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

27 (3) the identity of the obligor; or

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

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2006.