

# SENATE BILL 154

D4  
HB 1264/06 – JUD

71r0447

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By: **Senators Forehand, Brochin, Jacobs, Muse, and Raskin**

Introduced and read first time: January 25, 2007

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 1, 2007

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Child Support Enforcement – Child Support Payment Incentive Program**

3 FOR the purpose of requiring the Child Support Enforcement Administration, by a  
4 certain date, to develop a statewide Child Support Payment Incentive Program  
5 to encourage payment of child support in certain cases; establishing certain  
6 criteria for participation in the Program; requiring the Administration to  
7 consider certain factors in determining whether to authorize a child support  
8 obligor to participate in the Program; establishing a certain presumption;  
9 requiring the Administration to reduce certain child support arrearages under  
10 certain circumstances; requiring that certain child support enforcement actions  
11 be suspended except under certain circumstances; requiring the Administration  
12 to take certain actions; establishing that a Program agreement is effective  
13 without the necessity of judicial approval; requiring that a Program agreement  
14 be terminated under certain circumstances; prohibiting a certain obligor from  
15 future participation in the Program under certain circumstances; establishing  
16 certain appeal procedures; requiring the Administration and local support  
17 enforcement offices to jointly develop a certain public awareness campaign;  
18 authorizing the Secretary of Human Resources to adopt certain regulations;  
19 requiring the Administration to report to the General Assembly on or before a  
20 certain date; defining a certain term; and generally relating to the Child  
21 Support Payment Incentive Program.

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, without amendments,  
 2 Article – Family Law  
 3 Section 10–112  
 4 Annotated Code of Maryland  
 5 (2006 Replacement Volume)

6 BY adding to  
 7 Article – Family Law  
 8 Section 10–112.1  
 9 Annotated Code of Maryland  
 10 (2006 Replacement Volume)

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

13 **Article – Family Law**

14 10–112.

15 (a) (1) Subject to the best interest of the child, if the Administration  
 16 considers it to be in the best interest of this State in a case in which an assignment  
 17 has been made under Article 88A, § 50(b)(2) of the Code, the Administration may  
 18 accept in full settlement of an arrearage in child support payments an amount that is  
 19 less than the total arrearage.

20 (2) On request of the Administration, a court may approve by order an  
 21 amount that is less than the total arrearage as full settlement of the arrearage.

22 (b) (1) In a case in which an assignment has been made under Article  
 23 88A, § 50(b)(2) of the Code, there is a presumption that it is in the best interest of this  
 24 State for the Administration to accept in full settlement of an arrearage in child  
 25 support payments an amount that is less than the total arrearage if:

26 (i) 1. the obligor, the individual who has made an  
 27 assignment under Article 88A, § 50(b)(2) of the Code, and the child who is the subject  
 28 of the support order have resided together for at least the 12 months immediately  
 29 preceding a request for settlement under this section; or

30 2. the obligor and the child who is the subject of the  
 31 support order have resided together for at least the 12 months immediately preceding  
 32 a request for settlement under this section, and the individual who has made an

1 assignment under Article 88A, § 50(b)(2) of the Code is deceased, incapacitated, or  
2 otherwise unavailable to reside with the obligor and the child;

3 (ii) the obligor has been supporting the child for at least the 12  
4 months immediately preceding a request for settlement under this section; and

5 (iii) the gross income of the obligor is less than 225 percent of the  
6 federal poverty level, as defined by the United States Department of Health and  
7 Human Services.

8 (2) For purposes of paragraph (1)(i)2 of this subsection, an individual  
9 who has made an assignment under Article 88A, § 50(b)(2) of the Code may not be  
10 considered incapacitated or otherwise unavailable due solely to a change in legal or  
11 physical custody of the child.

12 (3) (i) If the Administration does not accept in full settlement of an  
13 arrearage in child support payments an amount that is less than the total arrearage  
14 under this subsection, the Administration shall notify the obligor of the decision and of  
15 the obligor's right to appeal the decision to the Office of Administrative Hearings.

16 (ii) An appeal under this subsection shall be conducted in  
17 accordance with Title 10, Subtitle 2 of the State Government Article.

18 (c) The Secretary of Human Resources, in cooperation with the Office of  
19 Administrative Hearings, may adopt regulations to implement this section.

20 **10-112.1.**

21 (A) IN THIS SECTION, "PROGRAM" MEANS THE CHILD SUPPORT  
22 PAYMENT INCENTIVE PROGRAM.

23 (B) BY JUNE 1, 2008, THE ADMINISTRATION SHALL DEVELOP A  
24 STATEWIDE CHILD SUPPORT PAYMENT INCENTIVE PROGRAM TO ENCOURAGE  
25 PAYMENT OF CHILD SUPPORT IN CASES IN WHICH AN ASSIGNMENT HAS BEEN  
26 MADE UNDER ~~ARTICLE 88A, § 50(B)(2) OF THE CODE~~ § 5-312(B)(2) OF THE  
27 HUMAN SERVICES ARTICLE BY ENTERING INTO AGREEMENTS WITH CHILD  
28 SUPPORT OBLIGORS IN EXCHANGE FOR REDUCTIONS IN THE AMOUNT OF  
29 ARREARAGES AS AUTHORIZED UNDER § 10-112 OF THIS SUBTITLE.

1           (c) (1) (i) TO PARTICIPATE IN THE PROGRAM, THE OBLIGOR'S  
2 INCOME SHALL MEET THE CRITERIA DESCRIBED IN § 10-112(B)(1)(III) OF THIS  
3 SUBTITLE.

4                           (ii) FOR PURPOSES OF DETERMINING THE APPLICABLE  
5 FEDERAL POVERTY LEVEL FOR A PROGRAM APPLICANT, THE OBLIGOR'S  
6 HOUSEHOLD SHALL INCLUDE THE CHILDREN FOR WHOM THE OBLIGOR IS  
7 REQUIRED TO PAY CHILD SUPPORT UNDER A CHILD SUPPORT ORDER THAT IS  
8 THE SUBJECT OF THE APPLICATION TO THE PROGRAM.

9           (2) (i) IN DETERMINING WHETHER TO AUTHORIZE AN  
10 OBLIGOR TO PARTICIPATE IN THE PROGRAM, THE ADMINISTRATION SHALL  
11 CONSIDER THE FOLLOWING FACTORS:

12                           1. WHETHER THE OBLIGOR HAS A CURRENT ABILITY  
13 TO PAY;

14                           2. WHETHER THE REDUCTION OF ARREARAGES WILL  
15 ENCOURAGE THE OBLIGOR'S ECONOMIC STABILITY; AND

16                           3. WHETHER THE AGREEMENT SERVES THE BEST  
17 INTERESTS OF THE CHILDREN WHOM THE OBLIGOR IS REQUIRED TO SUPPORT.

18                           (ii) IF ANY OF THE FACTORS SPECIFIED IN SUBPARAGRAPH  
19 (i) OF THIS PARAGRAPH ARE MET, THERE IS A PRESUMPTION THAT IT IS IN THE  
20 BEST INTEREST OF THE STATE TO AUTHORIZE AN OBLIGOR TO PARTICIPATE IN  
21 THE PROGRAM.

22           (d) UNDER THE PROGRAM, THE ADMINISTRATION SHALL AGREE TO  
23 REDUCE THE ARREARAGES IN ACCORDANCE WITH THE FOLLOWING SCHEDULE:

24                           (1) AFTER 12 MONTHS OF UNINTERRUPTED  
25 COURT-ORDERED PAYMENTS, THE ARREARAGES SHALL BE REDUCED BY 50% OF  
26 THE AMOUNT OF ARREARAGES OWED BEFORE THE AGREEMENT; AND

27                           (2) AFTER 24 MONTHS OF UNINTERRUPTED  
28 COURT-ORDERED PAYMENTS, THE ARREARAGES BALANCE SHALL BE REDUCED  
29 TO ZERO IN FULL SETTLEMENT OF THE ARREARAGES.

1           **(E) THE ADMINISTRATION SHALL DISTRIBUTE ANY CHILD SUPPORT**  
2 **ARREARAGES RECEIVED UNDER THIS SECTION IN ACCORDANCE WITH FEDERAL**  
3 **LAW.**

4           **(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
5 **SUBSECTION, FOR THE DURATION OF AN AGREEMENT UNDER SUBSECTION (D)**  
6 **OF THIS SECTION, ALL CHILD SUPPORT ENFORCEMENT ACTIONS SHALL BE**  
7 **SUSPENDED, UNLESS THE SUSPENSION WOULD BE IN CONFLICT WITH FEDERAL**  
8 **LAW.**

9           **(2) FOR THE DURATION OF AN AGREEMENT UNDER SUBSECTION**  
10 **(D) OF THIS SECTION, ANY EARNINGS WITHHOLDING SHALL CONTINUE IN AN**  
11 **AMOUNT CONSISTENT WITH THE AGREEMENT.**

12           **(G) (1) WHEN THE ADMINISTRATION ENTERS INTO A PROGRAM**  
13 **AGREEMENT WITH AN OBLIGOR, THE ADMINISTRATION SHALL FILE A COPY OF**  
14 **THE AGREEMENT WITH THE COURT WITHIN 30 DAYS AFTER THE AGREEMENT IS**  
15 **EXECUTED.**

16           **(2) IF AN OBLIGOR SATISFIES THE REQUIREMENTS FOR A**  
17 **REDUCTION IN ARREARAGES UNDER THE SCHEDULE SPECIFIED IN SUBSECTION**  
18 **(D) OF THIS SECTION, THE ADMINISTRATION SHALL:**

19                   **(I) FILE A NOTICE OF REDUCTION OF ARREARAGES WITH**  
20 **THE COURT; AND**

21                   **(II) PROVIDE A COPY OF THE NOTICE TO THE OBLIGOR THAT**  
22 **REFLECTS THE ADJUSTED AMOUNT OF ANY ARREARAGES THAT THE OBLIGOR**  
23 **OWES.**

24           **(H) A PROGRAM AGREEMENT IS EFFECTIVE WITHOUT THE NECESSITY**  
25 **OF JUDICIAL APPROVAL.**

26           **(I) (1) AN AGREEMENT UNDER THIS SECTION SHALL BE**  
27 **TERMINATED IF THE OBLIGOR FAILS TO MAKE PAYMENTS EQUAL TO TWO TIMES**  
28 **THE MONTHLY SUPPORT OBLIGATION AMOUNT.**

29           **(2) AN OBLIGOR WHO HAS BEEN TERMINATED FROM A PROGRAM**  
30 **AGREEMENT MORE THAN TWO TIMES IS NOT ELIGIBLE FOR FUTURE**  
31 **PARTICIPATION IN THE PROGRAM.**

1           **(J) (1) THE ADMINISTRATION SHALL DEVELOP AN APPLICATION**  
2 **FORM FOR OBLIGORS TO REQUEST PARTICIPATION IN THE PROGRAM.**

3           **(2) WITHIN 60 DAYS AFTER RECEIPT OF A REQUEST FROM AN**  
4 **OBLIGOR, THE ADMINISTRATION SHALL PROVIDE A WRITTEN DECISION TO THE**  
5 **OBLIGOR.**

6           **(3) (I) IF THE ADMINISTRATION DOES NOT AUTHORIZE**  
7 **PARTICIPATION OF AN OBLIGOR IN THE PROGRAM, THE ADMINISTRATION**  
8 **SHALL NOTIFY THE OBLIGOR OF THE DECISION AND OF THE OBLIGOR'S RIGHT**  
9 **TO APPEAL THE DECISION TO THE OFFICE OF ADMINISTRATIVE HEARINGS.**

10           **(II) AN APPEAL UNDER THIS SUBSECTION SHALL BE**  
11 **CONDUCTED IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE**  
12 **GOVERNMENT ARTICLE.**

13           **(K) IF AN UNEMPLOYED OBLIGOR APPLIES TO PARTICIPATE IN THE**  
14 **PROGRAM, THE ADMINISTRATION SHALL GIVE THE OBLIGOR A LIST OF**  
15 **REFERRALS TO PROGRAMS THAT PREPARE INDIVIDUALS FOR ENTRY INTO THE**  
16 **WORKFORCE.**

17           **(L) THE ADMINISTRATION AND EACH LOCAL SUPPORT ENFORCEMENT**  
18 **OFFICE SHALL JOINTLY DEVELOP A PUBLIC AWARENESS CAMPAIGN TO**  
19 **PUBLICIZE STATEWIDE THE AVAILABILITY OF THE PROGRAM AND THE MANNER**  
20 **OF APPLYING TO PARTICIPATE IN THE PROGRAM.**

21           **(M) THE SECRETARY OF HUMAN RESOURCES MAY ADOPT**  
22 **REGULATIONS TO IMPLEMENT THIS SECTION.**

23           SECTION 2. AND BE IT FURTHER ENACTED, That the Child Support  
24 Enforcement Administration shall report to the General Assembly on or before  
25 October 1, 2009, in accordance with § 2-1246 of the State Government Article, on the  
26 implementation of this Act.

27           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 October 1, 2007.