

CHAPTER 16

(House Bill 263)

AN ACT concerning

Child Support Enforcement – Child Support Payment Incentive Program

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

BY repealing and reenacting, without amendments,

Article – Family Law
Section 10–112
Annotated Code of Maryland
(2006 Replacement Volume)

BY adding to

Article – Family Law
Section 10–112.1
Annotated Code of Maryland
(2006 Replacement Volume)

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

Article – Family Law

10–112.

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

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

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

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

2. the obligor and the child who is the subject of the support order have resided together for at least the 12 months immediately preceding a request for settlement under this section, and the individual who has made an assignment under Article 88A, § 50(b)(2) of the Code is deceased, incapacitated, or otherwise unavailable to reside with the obligor and the child;

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

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

(2) For purposes of paragraph (1)(i)2 of this subsection, an individual who has made an assignment under Article 88A, § 50(b)(2) of the Code may not be

considered incapacitated or otherwise unavailable due solely to a change in legal or physical custody of the child.

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

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

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

10-112.1.

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

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

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

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

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

- 1. WHETHER THE OBLIGOR HAS A CURRENT ABILITY TO PAY;**
- 2. WHETHER THE REDUCTION OF ARREARAGES WILL ENCOURAGE THE OBLIGOR'S ECONOMIC STABILITY; AND**
- 3. WHETHER THE AGREEMENT SERVES THE BEST INTERESTS OF THE CHILDREN WHOM THE OBLIGOR IS REQUIRED TO SUPPORT.**

(II) IF ANY OF THE FACTORS SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH ARE MET, THERE IS A PRESUMPTION THAT IT IS IN THE BEST INTEREST OF THE STATE TO AUTHORIZE AN OBLIGOR TO PARTICIPATE IN THE PROGRAM.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved by the Governor, April 10, 2007.