

Department of Legislative Services  
Maryland General Assembly  
2007 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 792

(Delegate Barkley, *et al.*)

Judiciary

Judicial Proceedings

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Family Law - Child Support - Suspension of Attorney Licenses

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This bill establishes procedures for the suspension of attorneys' licenses for failure to pay child support.

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Fiscal Summary

**State Effect:** Potential minimal increase in special funds to the extent the bill increases child support collections.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** This bill alters the definition of "licensing authority" to specifically include the Court of Appeals in provisions authorizing the Child Support Enforcement Administration (CSEA) to require a licensing authority to suspend certain professional licenses for failure to pay child support.

If the licensing authority is the Court of Appeals, CSEA is authorized to refer an individual who is 120 days in arrears in child support payments to the Attorney Grievance Commission for proceedings in accordance with the Maryland Rules governing attorney discipline. On recommendation of the Attorney Grievance Commission, the Court of Appeals may suspend an individual's license or take other action against the individual as authorized by the Maryland Rules.

At least 30 days before making a referral, CSEA must give notice and an opportunity to contest the accuracy of the information to the individual. Upon receipt of a request for investigation from an individual whose license is subject to suspension, CSEA must conduct an investigation. On completion of the investigation, CSEA must notify the individual of the result of the investigation and the individual's right to appeal to the Office of Administrative Hearings.

If, after the investigation or appeal, CSEA finds that it erred in making a decision, a referral may not be made to the Attorney Grievance Commission. Additionally, CSEA may not make a referral to the Attorney Grievance Commission if the an agreement is reached with the individual regarding a scheduled payment of the child support arrearage or a court issues an order for a scheduled payment of the child support arrearage and the individual is complying with the agreement or court order.

Before suspension of an attorney's license, notice must be given to the attorney as provided in the Maryland Rules governing attorney discipline. Appeal procedures are also governed by the Maryland Rules.

**Current Law:** A "license" is defined as a certificate, registration, permit, or other authorization that is issued by a licensing authority, is subject to suspension, revocation, forfeiture, or termination and is necessary for an individual to practice a particular business, occupation, or profession. "Licensing authority" includes specified State departments and their units, and commissions, boards or offices, and clerks of the court.

CSEA is authorized to request specified information from a licensing authority concerning any obligor in arrears in paying child support through a child support enforcement agency. CSEA may only request information up to four times in a calendar year unless the request pertains to an obligor who is licensed by or has applied for a license from the licensing authority. If CSEA requests information about an obligor from a licensing authority, the licensing authority must provide the requested information to CSEA.

CSEA is authorized to request a licensing authority to suspend or deny an individual's occupational license if the individual is in arrears by more than 120 days under the most recent child support order and the individual is subject to the jurisdiction of CSEA because (1) CSEA has accepted an assignment of support from a recipient of Temporary Cash Assistance (TCA); (2) the support recipient has filed an application for support enforcement services; or (3) the individual has failed to comply with a subpoena issued by CSEA. After a licensing authority is notified of CSEA's request, the licensing authority must suspend the individual's license or deny the license to an individual who is an applicant for a license.

Upon notification by CSEA, a licensing authority must suspend the individual's license or deny the license if the individual is a license applicant. CSEA must provide notice and opportunity for the individual to contest the accuracy of the information and request an investigation by CSEA. CSEA must also provide notice and opportunity to appeal the suspension or denial of license to the Office of Administrative Hearings, within the time frames specified in statute. If CSEA finds that it erred after the investigation or administrative appeal, CSEA is prohibited from sending notification about the individual to a licensing authority.

CSEA is also prohibited from sending notification about an individual to a licensing authority if CSEA reaches an agreement for a scheduled payment of the arrearage or a court issues an order for a scheduled payment of the arrearage and the individual is complying with the agreement or court order. If CSEA issued a subpoena to the individual and the individual has complied with the subpoena, CSEA may not send notification to the licensing authority.

CSEA must notify the licensing authority to reinstate any license suspended or denied within 10 days after any of the following events:

- CSEA receives a court order to reinstate the license;
- The individual has paid the support arrearage in full or demonstrated good faith by paying an ordered amount for four consecutive months; or
- The individual complies with a subpoena issued by CSEA.

A licensing authority must immediately reinstate any license suspended or process any license application after notification from CSEA and the individual is otherwise qualified.

**Background:** The federal Welfare Reform Act of 1995 requires states to implement procedures for suspending the professional licenses of delinquent child support obligors. Often, child support obligors are self-employed and, as a result, are not subject to earnings withholding. Earnings withholding is the most effective and widely used tool to enforce support orders. The ability to cause the suspension or denial of a professional license is an additional enforcement tool for collecting delinquent child support when other enforcement remedies are unavailable or ineffective. In Maryland, the only professional license not subject to suspension for failure to pay child support is the attorney's license.

**State Revenues:** Special fund revenues could increase to the extent that CSEA is able to increase child support collections. The Administrative Office of the Courts advises that

there are about 32,000 individuals licensed to practice law in Maryland. It is unknown how many lawyers this bill would apply to, but any revenue increase is assumed to be minimal. TCA recipients must assign their support payments to the State and federal governments as partial reimbursement for TCA payments made on behalf of the children of the obligor; as a result, TCA child support collections are distributed 50% to the State and 50% to the federal government. Accordingly, the State and federal governments would share equally in collection revenues. Any such potential increase cannot be quantified at this time due to the unavailability of data.

**State Expenditures:** The Administrative Office of the Courts advises that the bill may impact the Clerk's Office of the Court of Appeals and the staff of the Client Protection Fund, who regularly maintain and update the list of licensed attorneys. However, it is anticipated that the Judiciary could meet this bill's requirements using existing resources.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Human Resources, Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - February 20, 2007  
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