

# HOUSE BILL 1618

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By: **Chair, Appropriations Committee**

Rules suspended

Introduced and read first time: March 13, 2008

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Unpaid Child Support – Liens Against Monetary Awards Owed to Child**  
3 **Support Obligors**

4 FOR the purpose of requiring that unpaid child support be a lien against certain  
5 monetary awards owed to a child support obligor; requiring that the distribution  
6 of a certain monetary award be stayed pending payment of a certain lien;  
7 requiring that a certain prevailing party or beneficiary provide a certain  
8 statement to that individual's attorney under certain circumstances; requiring  
9 that a certain attorney contact the Child Support Enforcement Administration  
10 to verify certain information before the delivery of a certain release; prohibiting  
11 a certain attorney from distributing a certain monetary award until a certain  
12 response is received; establishing duties of a certain attorney if a certain  
13 obligation and arrearage exists; requiring a certain disbursement by the State  
14 disbursement unit if there are multiple child support orders; providing for  
15 submission of a certain statement and written documentation and payment of  
16 the lien if a certain individual is not represented by an attorney; establishing a  
17 certain immunity for making an erroneous distribution; providing that a certain  
18 provision of law does not establish a certain claim or cause of action; prohibiting  
19 the State Workers' Compensation Commission from entering a certain order  
20 unless the claimant has provided a certain statement and written  
21 documentation; requiring the Commission to order payment of a certain lien for  
22 unpaid child support in a certain manner; requiring that, if there is a certain  
23 dispute, a certain amount of money be placed in escrow in the State  
24 disbursement unit; defining certain terms; and generally relating to child  
25 support.

26 BY adding to  
27 Article – Family Law  
28 Section 10–140.1  
29 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2006 Replacement Volume and 2007 Supplement)

2 BY repealing and reenacting, with amendments,  
3 Article – Labor and Employment  
4 Section 9–729  
5 Annotated Code of Maryland  
6 (1999 Replacement Volume and 2007 Supplement)

7 BY repealing and reenacting, without amendments,  
8 Article – Labor and Employment  
9 Section 9–732  
10 Annotated Code of Maryland  
11 (1999 Replacement Volume and 2007 Supplement)

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

14 **Article – Family Law**

15 **10–140.1.**

16 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
17 MEANINGS INDICATED.

18 (2) “MONETARY AWARD” MEANS:

19 (I) ANY PORTION OF A SETTLEMENT, PAID AS A LUMP SUM,  
20 THAT WAS NEGOTIATED IN LIEU OF, OR SUBSEQUENT TO, THE FILING OF A  
21 LAWSUIT;

22 (II) A CIVIL JUDGMENT OR AWARD THAT IS PAID AS A  
23 THIRD-PARTY CLAIM FOR BODILY INJURY OR DEATH UNDER A PROPERTY AND  
24 CASUALTY INSURANCE POLICY; OR

25 (III) A WORKERS’ COMPENSATION BENEFIT LUMP-SUM  
26 AWARD.

27 (3) “NET PROCEEDS” MEANS:

28 (I) MONEYS IN EXCESS OF \$1,500 PAYABLE TO A  
29 PREVAILING PARTY OR BENEFICIARY; OR

30 (II) A LUMP-SUM WORKERS’ COMPENSATION BENEFIT DUE  
31 A CLAIMANT, AFTER PAYMENT OF ATTORNEY’S FEES, WITNESS FEES, COURT  
32 COSTS, REASONABLE LITIGATION EXPENSES, AND DOCUMENTED UNPAID

1 EXPENSES INCURRED FOR MEDICAL TREATMENT CAUSALLY RELATED TO THE  
2 WORKER'S COMPENSATION CLAIM.

3 (B) (1) UNPAID CHILD SUPPORT SHALL BE A LIEN BY OPERATION OF  
4 LAW AGAINST THE NET PROCEEDS OF ANY MONETARY AWARD OWED TO AN  
5 OBLIGOR.

6 (2) DISTRIBUTION OF ANY MONETARY AWARD SHALL BE STAYED  
7 IN AN AMOUNT EQUAL TO THE CHILD SUPPORT ARREARAGE AS PROVIDED IN  
8 THIS SECTION PENDING PAYMENT OF THE LIEN.

9 (C) (1) EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS SECTION,  
10 BEFORE RECEIVING THE NET PROCEEDS OF A MONETARY AWARD, THE  
11 PREVAILING PARTY OR BENEFICIARY SHALL PROVIDE THAT INDIVIDUAL'S  
12 ATTORNEY WITH A STATEMENT THAT INCLUDES THE PREVAILING PARTY'S OR  
13 BENEFICIARY'S:

14 (I) FULL NAME;

15 (II) MAILING ADDRESS;

16 (III) DATE OF BIRTH;

17 (IV) SOCIAL SECURITY NUMBER;

18 (V) CHILD SUPPORT CASE NUMBER, IF APPLICABLE; AND

19 (VI) CIRCUIT COURT CASE NUMBER PERTAINING TO AN  
20 ORDER TO PAY CHILD SUPPORT, IF APPLICABLE.

21 (2) THE PREVAILING PARTY OR BENEFICIARY SHALL ALSO  
22 PROVIDE THAT INDIVIDUAL'S ATTORNEY WITH A TIMELY STATEMENT  
23 INDICATING:

24 (I) THE AMOUNT OF CHILD SUPPORT ARREARS AS  
25 REPORTED BY THE ADMINISTRATION, WHICH CAN BE OBTAINED FROM THE  
26 LOCAL SUPPORT ENFORCEMENT OFFICE HANDLING THE ENFORCEMENT OF THE  
27 CHILD SUPPORT ORDER OR THE CHILD SUPPORT CUSTOMER SERVICE  
28 TELEPHONE SYSTEM; OR

29 (II) IF NO ARREARAGE EXISTS, WRITTEN CONFIRMATION  
30 FROM THE OFFICE HANDLING THE ORDER THAT NO ARREARAGE EXISTS.

1           **(3) THE ATTORNEY OF THE PREVAILING PARTY OR BENEFICIARY**  
2 **SHALL CONTACT THE ADMINISTRATION IN WRITING TO VERIFY WHETHER OR**  
3 **NOT THE PREVAILING PARTY OR BENEFICIARY HAS AN EXISTING CHILD**  
4 **SUPPORT OBLIGATION OR OWES ANY OVERDUE CHILD SUPPORT BEFORE THE**  
5 **TIME OF THE DELIVERY OF ANY EXECUTED RELEASE AND MAY NOT ALLOW**  
6 **DISTRIBUTION OF A MONETARY AWARD TO THE PREVAILING PARTY OR**  
7 **BENEFICIARY UNTIL A RESPONSE IS RECEIVED.**

8           **(4) (I) IF IT IS DETERMINED THAT AN OBLIGATION AND AN**  
9 **ARREARAGE EXIST, THE ATTORNEY SHALL:**

10                   **1. INFORM THE INSURANCE COMPANY OR PAYOR OF**  
11 **THE MONETARY AWARD OF THE LEGAL DUTY TO PROTECT THE LIEN; AND**

12                   **2. PAY THE LIEN TO THE STATE DISBURSEMENT**  
13 **UNIT ESTABLISHED UNDER § 10-108.7 OF THIS SUBTITLE FROM THE NET**  
14 **PROCEEDS OF ANY MONETARY AWARD.**

15                   **(II) IF THERE ARE MULTIPLE CHILD SUPPORT ORDERS, THE**  
16 **STATE DISBURSEMENT UNIT SHALL DISBURSE THE PROCEEDS AMONG THE**  
17 **CASES PURSUANT TO APPLICABLE LAWS AND REGULATIONS.**

18           **(D) (1) IF THE PREVAILING PARTY OR BENEFICIARY IS NOT**  
19 **REPRESENTED BY AN ATTORNEY, THE PREVAILING PARTY OR BENEFICIARY**  
20 **SHALL PROVIDE THE STATEMENT AND WRITTEN DOCUMENTATION OF ARREARS**  
21 **OR NO ARREARAGE REQUIRED BY SUBSECTION (C) OF THIS SECTION TO THE**  
22 **INSURER OR OTHER PAYING AGENT RESPONSIBLE FOR DISTRIBUTION OF THE**  
23 **MONETARY AWARD.**

24                   **(2) THE INSURER OR OTHER PAYING AGENT RESPONSIBLE FOR**  
25 **THE DISTRIBUTION OF THE MONETARY AWARD SHALL PAY THE LIEN, OR**  
26 **DISPUTED LIEN AMOUNT, TO THE STATE DISBURSEMENT UNIT FROM THE NET**  
27 **PROCEEDS OF ANY MONETARY AWARD.**

28           **(E) (1) AN ATTORNEY, INSURER, OR OTHER PAYING AGENT THAT**  
29 **MAKES A DISTRIBUTION IN ACCORDANCE WITH A STATEMENT AND THE WRITTEN**  
30 **DOCUMENTATION REQUIRED UNDER SUBSECTION (C) OF THIS SECTION SHALL**  
31 **BE IMMUNE FROM ANY CIVIL, CRIMINAL, OR ADMINISTRATIVE PENALTIES FOR**  
32 **MAKING AN ERRONEOUS DISTRIBUTION.**

33                   **(2) NOTHING IN THIS SECTION MAY BE CONSTRUED TO GIVE RISE**  
34 **TO A CLAIM OR CAUSE OF ACTION AGAINST AN ATTORNEY, INSURER, OR OTHER**  
35 **PAYING AGENT BY ANY PERSON WHO ASSERTS THAT THE PERSON IS THE**  
36 **INTENDED OBLIGEE OF THE OUTSTANDING LIEN FOR CHILD SUPPORT.**

1           **(F) (1) THE STATE WORKERS' COMPENSATION COMMISSION MAY**  
2 **NOT ENTER AN ORDER FOR A LUMP-SUM PAYMENT OF WORKERS'**  
3 **COMPENSATION BENEFITS UNDER § 9-729 OF THE LABOR AND EMPLOYMENT**  
4 **ARTICLE UNLESS THE CLAIMANT HAS PROVIDED THE STATE WORKERS'**  
5 **COMPENSATION COMMISSION WITH A STATEMENT THAT INCLUDES THE:**

6                   **(I) FULL NAME OF THE CLAIMANT;**

7                   **(II) MAILING ADDRESS OF THE CLAIMANT;**

8                   **(III) DATE OF BIRTH OF THE CLAIMANT; AND**

9                   **(IV) SOCIAL SECURITY NUMBER OF THE CLAIMANT.**

10           **(2) THE CLAIMANT SHALL ALSO PROVIDE THE STATE WORKERS'**  
11 **COMPENSATION COMMISSION WITH:**

12                   **(I) WRITTEN DOCUMENTATION OF THE AMOUNT OF CHILD**  
13 **SUPPORT ARREARS FROM THE ADMINISTRATION; OR**

14                   **(II) IF NO ARREARAGE EXISTS, WRITTEN DOCUMENTATION**  
15 **FROM THE ADMINISTRATION THAT NO ARREARAGE EXISTS.**

16           **(3) THE STATE WORKERS' COMPENSATION COMMISSION SHALL**  
17 **ORDER PAYMENT OF THE LIEN FOR UNPAID CHILD SUPPORT TO THE STATE**  
18 **DISBURSEMENT UNIT FROM THE NET PROCEEDS DUE THE CLAIMANT.**

19           **(G) IF THERE IS A DISPUTE AS TO THE AMOUNT OF ARREARS OWED BY**  
20 **THE PREVAILING PARTY, BENEFICIARY, OR CLAIMANT BASED ON A MISTAKE OF**  
21 **FACT, THE AMOUNT OF ARREARS IN DISPUTE SHALL BE PLACED IN ESCROW IN**  
22 **THE STATE DISBURSEMENT UNIT, AND THE ESCROWED FUNDS MAY NOT BE**  
23 **DISTRIBUTED UNTIL THE DISPUTE IS RESOLVED.**

24                   **Article - Labor and Employment**

25           **9-729.**

26           **(a) This section does not apply to a claim involving a temporary disability.**

27           **(b) [If] SUBJECT TO § 10-140.1 OF THE FAMILY LAW ARTICLE, IF the**  
28 **Commission finds that a lump-sum payment is warranted under the facts and**  
29 **circumstances of a claim, the Commission may order that compensation payable to a**  
30 **covered employee or the dependents of a covered employee be converted to a partial or**  
31 **total lump sum.**

1 (c) If the Commission grants a lump-sum payment under this section in a  
2 claim involving permanent total disability or death, the Commission shall:

3 (1) reduce the weekly rate of compensation until the amount of the  
4 lump sum would have been paid if it had been paid in weekly payments; and

5 (2) determine in the award:

6 (i) the dollar amount and the number of weeks to be paid by the  
7 employer or its insurer at the reduced weekly rate; and

8 (ii) if payments are made from the Subsequent Injury Fund, the  
9 dollar amount and the number of weeks to be paid by the Subsequent Injury Fund at  
10 the reduced weekly rate.

11 (d) An award may not be discounted because of a lump-sum payment.

12 9-732.

13 Except as provided in Title 10 of the Family Law Article, before the issuance  
14 and delivery of a check or draft for any money payable under this title, the money may  
15 not be assigned, charged, or taken in attachment or execution.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 2008.