

# SENATE BILL 70

D4, O4

9lr0137

(PRE-FILED)

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By: **Chair, Judicial Proceedings Committee (By Request – Departmental – Human Resources)**

Requested: October 6, 2008

Introduced and read first time: January 14, 2009

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Child Support Enforcement – Medical Support for Children**

3 FOR the purpose of altering provisions of law relating to health insurance coverage for  
4 children by requiring, rather than authorizing, a court to include in a certain  
5 support order a provision requiring health insurance coverage for a child;  
6 providing that both parents are subject to a certain order; altering the  
7 conditions under which coverage must be provided; repealing a provision of law  
8 authorizing a certain order to be issued separate from or in conjunction with an  
9 earnings withholding order; requiring a court to include certain provisions in a  
10 support order if health insurance coverage is not available at a reasonable cost  
11 at the time the order is established or modified; establishing when cash medical  
12 support and the cost of health insurance coverage shall be deemed reasonable;  
13 defining certain terms; and generally relating to medical support for children.

14 BY repealing and reenacting, with amendments,  
15 Article – Family Law  
16 Section 12–102  
17 Annotated Code of Maryland  
18 (2006 Replacement Volume and 2008 Supplement)

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

21 **Article – Family Law**

22 12–102.

23 (a) (1) In this section the following words have the meanings indicated.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2) “ACCESSIBLE” MEANS HEALTH INSURANCE COVERAGE THAT INSURES PRIMARY CARE SERVICES LOCATED WITHIN THE LESSER OF 30 MILES OR 30 MINUTES FROM THE CHILD’S PRIMARY RESIDENCE.

(3) “ACTUAL INCOME” HAS THE MEANING STATED IN § 12-201(B) OF THIS TITLE.

(4) “CASH MEDICAL SUPPORT” MEANS AN AMOUNT PAID:

(I) TOWARD THE COST OF HEALTH INSURANCE PROVIDED BY:

1. A PUBLIC ENTITY; OR

2. ONE OR BOTH PARENTS THROUGH EMPLOYMENT OR OTHERWISE; OR

(II) FOR OTHER MEDICAL COSTS NOT COVERED BY INSURANCE.

[(2)] (5) “Health insurance coverage” means any type of health care coverage under which medical care services can be provided to the child through an insurer.

[(3)] (6) “Insurer” means:

(i) an insurer, a nonprofit health service organization, or a health maintenance organization operating in this State under a certificate of authority issued by the Maryland Insurance Commissioner;

(ii) an entity that provides a group health plan, as defined in § 607(1) of the Employee Retirement Income Security Act of 1974; or

(iii) an entity offering a service benefit plan as defined by federal law.

[(4)] (7) “Medical support notice” means a notice that is:

(i) in a format prescribed by federal law; and

(ii) issued by a child support agency to enforce the health insurance coverage provisions of a child support order.

[(5)] (8) “Tribunal” has the meaning stated in § 10-301 of this article.

1 (b) The court [may] **SHALL** include in any support order **THAT IS**  
2 **ESTABLISHED OR MODIFIED** a provision requiring either parent **OR BOTH PARENTS**  
3 to include the child in the parent's health insurance coverage if:

4 (1) the parent can obtain health insurance coverage through an  
5 employer or any form of group health insurance coverage; [and]

6 (2) the child can be included at a reasonable cost to the parent in that  
7 health insurance coverage; **AND**

8 (3) **THE HEALTH INSURANCE COVERAGE IS ACCESSIBLE TO THE**  
9 **CHILD.**

10 (c) [An order of a court requiring the provision of health insurance coverage  
11 for a child may be issued separate from or in conjunction with an earnings withholding  
12 order.] **IF HEALTH INSURANCE COVERAGE AT A REASONABLE COST IS NOT**  
13 **AVAILABLE AT THE TIME A SUPPORT ORDER IS ESTABLISHED OR MODIFIED, THE**  
14 **COURT SHALL INCLUDE A PROVISION REQUIRING THAT:**

15 (1) **HEALTH INSURANCE COVERAGE BE PROVIDED BY ONE OR**  
16 **BOTH PARENTS SHOULD IT BECOME AVAILABLE IN THE FUTURE; AND**

17 (2) **ONE OR BOTH PARENTS PROVIDE CASH MEDICAL SUPPORT AT**  
18 **A REASONABLE COST.**

19 (D) **A COURT MAY ORDER ONE OR BOTH PARENTS TO PROVIDE CASH**  
20 **MEDICAL SUPPORT AT A REASONABLE COST IN ADDITION TO REQUIRING ONE**  
21 **OR BOTH PARENTS TO PROVIDE HEALTH INSURANCE COVERAGE.**

22 (E) (1) **THE COST OF HEALTH INSURANCE COVERAGE SHALL BE**  
23 **DEEMED REASONABLE IF THE COST OF ADDING THE CHILD TO EXISTING**  
24 **HEALTH INSURANCE COVERAGE, OR THE DIFFERENCE BETWEEN SELF-ONLY**  
25 **AND FAMILY COVERAGE, DOES NOT EXCEED 10% OF THE ACTUAL INCOME OF**  
26 **THE PARENT ORDERED TO PAY FOR HEALTH INSURANCE COVERAGE.**

27 (2) **CASH MEDICAL SUPPORT SHALL BE DEEMED REASONABLE IF**  
28 **IT DOES NOT EXCEED 10% OF THE ACTUAL INCOME OF THE PARENT ORDERED**  
29 **TO PROVIDE CASH MEDICAL SUPPORT.**

30 [(d)] (F) (1) If a court orders a parent to provide health insurance  
31 coverage under this section, the parent under the order or the support enforcement  
32 agency shall send a copy of the order or medical support notice to the parent's  
33 employer by first-class mail, separate from or in conjunction with an earnings  
34 withholding order, as provided in § 10-123 of this article.

1                   (2)     Within 20 business days after the receipt of the order or medical  
2 support notice, the employer shall:

3                   (i)     send the appropriate part of the medical support notice to  
4 the employer's insurer;

5                   (ii)    if the employer determines that, based on reasons related to  
6 the employee's employment status, the employee's child is ineligible for health  
7 insurance coverage, complete the appropriate part of the medical support notice and  
8 return it to the issuing child support agency;

9                   (iii)   permit the parent, a child support enforcement agency, or  
10 the Department of Health and Mental Hygiene to enroll the child in any health  
11 insurance coverage available to the parent without regard to any enrollment season  
12 restrictions;

13                  (iv)    provide a statement to the support enforcement agency and  
14 to both parents that the child:

- 15                               1.     has been enrolled in health insurance coverage;
- 16                               2.     will be enrolled in health insurance coverage and that  
17 the expected date of enrollment will be provided; or
- 18                               3.     cannot be enrolled in health insurance coverage; and

19                  (v)    provide information to both parents and to the support  
20 enforcement agency concerning the available health insurance coverage, including:

- 21                               1.     the employee's Social Security number;
- 22                               2.     the name, address, and telephone number of the  
23 insurer;
- 24                               3.     the policy number;
- 25                               4.     the group number;
- 26                               5.     the effective date of coverage; and
- 27                               6.     any schedule of benefits.

28           [(e)] (G)     On receipt of the order or medical support notice, the employer:

29                   (1)     if the employee's child is eligible for health insurance coverage,  
30 shall withhold from the employee's next earnings the amount of the employee  
31 contribution required to enroll the employee's child;

(2) if the employee's child is not currently eligible for health insurance coverage but will become eligible, shall withhold from the employee's earnings, at the earliest time the employee's child becomes eligible, the amount of the employee contribution required to enroll the employee's child; or

(3) if federal or State withholding limitations or prioritization prevent withholding from the employee's wages the amount required for enrollment, shall complete and send, to the issuing child support agency, the appropriate part of the medical support notice indicating the employee's income is insufficient for enrollment.

**[(f)] (H)** (1) To the extent consistent with the federal Consumer Credit Protection Act, the employer shall deduct the premiums for health insurance coverage from the earnings of the employee on a regular and continuing basis and pay the premiums to the insurer.

(2) The employer shall send to the insurer the amount deducted from the employee's earnings each pay period within 10 business days after the day on which the earnings are paid to the employee.

**[(g)] (I)** An employer or the child's parents may not disenroll or eliminate coverage for the child in any manner unless:

(1) the employer is provided satisfactory written evidence that:

(i) the court order is no longer in effect; or

(ii) the child has been or will be enrolled under other reasonable health insurance coverage, with the coverage to take effect no later than the effective date of disenrollment;

(2) the employer has eliminated family health coverage for all of its employees; or

(3) the employer no longer employs the parent under whose name the child has been enrolled for coverage except to the extent that if the parent elects to exercise the provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) then coverage must be provided for the child consistent with the employer's plan relating to postemployment medical coverage for dependents.

**[(h)] (J)** (1) If the health insurance coverage for the child terminates, the employer shall notify the other parent and, if a support enforcement agency is involved in the case, the support enforcement agency within 15 days of termination of the insurance.

(2) If, after a lapse in health insurance coverage, health insurance coverage becomes available to the employee for the child, the employer shall:

1 (i) enroll the child in health insurance coverage without regard  
2 to any enrollment season restrictions; and

3 (ii) within 15 days after health insurance coverage becomes  
4 available, provide notice to the support enforcement agency and the other parent of  
5 the enrollment.

6 [(i)] (K) Subject to the provisions of this section, the parent or the support  
7 enforcement agency may bring a civil action against an employer who willfully violates  
8 the provisions of this section.

9 [(j)] (L) This section does not limit the authority of a court to enter, modify,  
10 or enforce an order requiring payment of uninsured health expenses, health care costs,  
11 or health insurance premiums.

12 [(k)] (M) An employer may not use the existence of an order or a medical  
13 support notice requiring health insurance coverage as a basis for:

14 (1) reprisal against an employee;

15 (2) dismissal of an employee from employment; or

16 (3) refusal to hire a person or to promote an employee.

17 [(l)] (N) An order entered under this section is binding on a present and  
18 future employer of the parent on whom a copy of this order is served.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 2009.