

HOUSE BILL 74

D4

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(PRE-FILED)

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

Requested: October 22, 2009

Introduced and read first time: January 13, 2010

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Maryland Uniform Interstate Family Support Act – Revision**

3 FOR the purpose of revising the Maryland Uniform Interstate Family Support Act;
4 altering the circumstances under which a tribunal of this State is authorized to
5 exercise personal jurisdiction over a nonresident individual in a proceeding to
6 establish or enforce a child support order or to determine parentage; specifying
7 who is required to give notice of a request for a determination of the controlling
8 support order; authorizing the Attorney General to provide certain services to
9 certain individuals; altering certain rules of evidence and procedure; altering
10 the circumstances under which a support enforcement agency or tribunal of this
11 State is required to redirect certain payments; altering a certain provision
12 governing the recognition of a support order modified in another state; and
13 generally relating to the revision of the Maryland Uniform Interstate Family
14 Support Act.

15 BY repealing and reenacting, with amendments,
16 Article – Family Law
17 Section 10–304(a), 10–310, 10–320, 10–328, 10–331, and 10–351
18 Annotated Code of Maryland
19 (2006 Replacement Volume and 2009 Supplement)

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

22 **Article – Family Law**

23 10–304.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) In a proceeding to establish or enforce a support order or to determine
2 parentage, a tribunal of this State may exercise personal jurisdiction over a
3 nonresident individual if:

4 (1) the individual is personally served within this State;

5 (2) the individual submits to the jurisdiction of this State by consent
6 in a record, by entering a general appearance, or by filing a responsive document
7 having the effect of waiving any contest to personal jurisdiction;

8 (3) **THE INDIVIDUAL RESIDED WITH THE CHILD IN THIS STATE;**

9 (4) the individual resided in this State and provided prenatal expenses
10 or support for the child;

11 ~~[(4)]~~ (5) the child resides in this State as result of the acts or
12 directives of the individual;

13 ~~[(5)]~~ (6) ~~[the child may have been conceived]~~ **THE INDIVIDUAL**
14 **ENGAGED IN SEXUAL INTERCOURSE** in this State **AND THE CHILD MAY HAVE**
15 **BEEN CONCEIVED BY THAT ACT OF INTERCOURSE;** or

16 ~~[(6)]~~ (7) there is any other basis consistent with the constitutions of
17 this State and the United States for the exercise of personal jurisdiction.

18 10-310.

19 (a) If a proceeding is brought under this subtitle and only one tribunal has
20 issued a child support order, the order of that tribunal controls and must be so
21 recognized.

22 (b) If a proceeding is brought under this subtitle, and two or more child
23 support orders have been issued by tribunals of this State or another state with regard
24 to the same obligor and same child, a tribunal of this State having personal
25 jurisdiction over both the obligor and individual obligee shall apply the following rules
26 and by order shall determine which order controls:

27 (1) if only one of the tribunals would have continuing, exclusive
28 jurisdiction under this subtitle, the order of that tribunal controls and must be so
29 recognized;

30 (2) if more than one of the tribunals would have continuing, exclusive
31 jurisdiction under this subtitle, an order issued by a tribunal in the current home state
32 of the child controls, but if an order has not been issued in the current home state of
33 the child, the order most recently issued controls; or

1 (3) if none of the tribunals would have continuing, exclusive
2 jurisdiction under this subtitle, the tribunal of this State shall issue a child support
3 order, which controls.

4 (c) If two or more child support orders have been issued for the same obligor
5 and same child, on request of a party who is an individual or support enforcement
6 agency, a tribunal of this State having personal jurisdiction over both the obligor and
7 the obligee who is an individual shall determine which order controls under subsection
8 (b) of this section. The request may be filed with a registration for enforcement or
9 registration for modification pursuant to Part VI of this subtitle, or may be filed as a
10 separate proceeding.

11 (d) A request to determine which is the controlling order must be
12 accompanied by a copy of every child support order in effect and the applicable record
13 of payments. [Each party whose rights may be affected by a determination of the
14 controlling order shall be given notice of the request for that determination in
15 accordance with the Maryland Rules] **THE REQUESTING PARTY SHALL GIVE**
16 **NOTICE OF THE REQUEST TO EACH PARTY WHOSE RIGHTS MAY BE AFFECTED BY**
17 **THE DETERMINATION.**

18 (e) The tribunal that issued the controlling order under subsection (a), (b), or
19 (c) of this section has continuing jurisdiction to the extent provided in § 10-308 or §
20 10-309 of this subtitle.

21 (f) A tribunal of this State that determines by order the controlling child
22 support order under subsection (b)(1) or (2) or (c) of this section or that issues a new
23 controlling child support order under subsection (b)(3) of this section, shall include in
24 that order:

25 (1) the basis upon which the tribunal made its determination;

26 (2) the amount of prospective support, if any; and

27 (3) the total amount of consolidated arrears and accrued interest, if
28 any, under all of the orders after all payments made are credited as provided by §
29 10-312 of this subtitle.

30 (g) Within 30 days after issuance of the order determining the controlling
31 order, the party obtaining that order shall file a certified copy of it in each tribunal
32 that had issued or registered an earlier order of child support. Failure of the party or
33 support enforcement agency obtaining the order to file a certified copy as required
34 subjects that party or support enforcement agency to appropriate sanctions by a
35 tribunal in which the issue of failure to file arises, but that failure has no effect on the
36 validity or enforceability of the controlling order.

1 (h) An order that has been determined to be the controlling order, or a
2 judgment for consolidated arrears of support and interest, if any, made pursuant to
3 this section shall be recognized in proceedings under this subtitle.

4 10-320.

5 (a) If the Attorney General determines that the support enforcement agency
6 is neglecting or refusing to provide services to an individual, the Attorney General
7 may order the agency to perform its duties under this subtitle **OR MAY PROVIDE**
8 **THOSE SERVICES DIRECTLY TO THE INDIVIDUAL.**

9 (b) The Attorney General may determine that a foreign country or political
10 subdivision has established a reciprocal arrangement for child support with this State
11 and take appropriate action for notification of the determination.

12 10-328.

13 (a) The physical presence of a nonresident party who is an individual in a
14 tribunal of this State is not required for the establishment, enforcement, or
15 modification of a support order or the rendition of a judgment determining parentage.

16 (b) An affidavit, a document substantially complying with federally
17 mandated forms, or a document incorporated by reference in any of them, which would
18 not be excluded under the hearsay rule if given in person, is admissible in evidence if
19 given under penalty of perjury by a party or witness residing in another state.

20 (c) A copy of the record of child support payments certified as a true copy of
21 the original by the custodian of the record may be forwarded to a responding tribunal.
22 The copy is evidence of facts asserted in it, and is admissible to show whether
23 payments were made.

24 (d) Copies of bills for testing for parentage, and for prenatal and postnatal
25 health care of the mother and child, furnished to the adverse party at least 10 days
26 before trial, are admissible in evidence to prove the amount of the charges billed and
27 that the charges were reasonable, necessary, and customary.

28 (e) Documentary evidence transmitted from another state to a tribunal of
29 this State by telephone, telecopier, or other means that do not provide an original
30 record may not be excluded from evidence on an objection based on the means of
31 transmission [unless the documentary evidence is shown to vary in a substantial or
32 relevant manner from the original].

33 (f) In a proceeding under this subtitle, a tribunal of this State shall permit a
34 party or witness residing in another state to be deposed or to testify by telephone,
35 audiovisual means, or other electronic means at a designated tribunal or other location
36 in that state. A tribunal of this State shall cooperate with tribunals of other states in
37 designating an appropriate location for the deposition or testimony.

1 (g) If a party called to testify at a civil hearing refuses to answer on the
2 ground that the testimony may be self-incriminating, the trier of fact may draw an
3 adverse inference from the refusal.

4 (h) Laws attaching a privilege against the disclosure of communications
5 between husband and wife do not apply to proceedings under this subtitle.

6 (i) [In proceedings under this subtitle, husband and wife are competent
7 witnesses and may be compelled to testify to any relevant matter, including marriage
8 and parentage.] **THE DEFENSE OF IMMUNITY BASED ON THE RELATIONSHIP OF
9 HUSBAND AND WIFE OR PARENT AND CHILD DOES NOT APPLY IN A PROCEEDING
10 UNDER THIS SUBTITLE.**

11 (j) A voluntary acknowledgment of paternity, certified as a true copy, is
12 admissible to establish parentage of the child.

13 10-331.

14 (a) A support enforcement agency or tribunal of this State shall disburse
15 promptly any amounts received pursuant to a support order, as directed by the order.
16 The agency or tribunal shall furnish to a requesting party or tribunal of another state
17 a certified statement by the custodian of the record of the amounts and dates of all
18 payments received.

19 (b) If the obligor, the obligee who is an individual, [or] **AND** the child [does]
20 **DO** not reside in this State, on request from the support enforcement agency of this
21 State or another state, the support enforcement agency of this State or a tribunal of
22 this State shall:

23 (1) direct that the support payment be made to the support
24 enforcement agency in the state in which the obligee is receiving services; and

25 (2) issue and send to the obligor's employer a conforming
26 income-withholding order or an administrative notice of change of payee, reflecting
27 the redirected payments.

28 (c) The support enforcement agency of this State receiving redirected
29 payments from another state pursuant to a law similar to subsection (b) of this section
30 shall furnish to a requesting party or tribunal of the other state a certified statement
31 by the custodian of the record of the amount and dates of all payments received.

32 10-351.

33 If a child support order issued by a tribunal of this State is modified by a
34 tribunal of another state which assumed jurisdiction pursuant to [this subtitle] **THE
35 UNIFORM INTERSTATE FAMILY SUPPORT ACT**, a tribunal of this State:

1 (1) may enforce its order that was modified only as to arrears and
2 interest accruing before the modification;

3 (2) may provide appropriate relief for violations of its order which
4 occurred before the effective date of the modification; and

5 (3) shall recognize the modifying order of the other state, upon
6 registration, for the purpose of enforcement.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2010.