

# SENATE BILL 181

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

Introduced and read first time: January 17, 2013

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Child Support – Presumptive Support Obligation**

3 FOR the purpose of establishing a presumptive support obligation under certain  
4 circumstances; authorizing a party to seek a judicial determination of support or  
5 challenge a presumptive support obligation; establishing that a presumptive  
6 support obligation remains in effect until otherwise determined or modified by  
7 the court; providing for the contents of a presumptive support obligation form;  
8 requiring that the parties be advised of certain legal consequences and rights;  
9 requiring the Administration to take certain actions; altering a certain  
10 definition; and generally relating to child support.

11 BY repealing and reenacting, with amendments,  
12 Article – Family Law  
13 Section 10–1A–01 and 10–1A–02  
14 Annotated Code of Maryland  
15 (2012 Replacement Volume)

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

18 **Article – Family Law**

19 10–1A–01.

20 (a) In this subtitle the following words have the meanings indicated.

21 (b) “Child support order” means:

22 (1) any support order for a child issued by a tribunal; [or]

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) an executed affidavit of support; OR

2 (3) A PRESUMPTIVE SUPPORT OBLIGATION ISSUED BY THE  
3 ADMINISTRATION.

4 (c) "Party" means:

5 (1) the legal parent of a child;

6 (2) a caretaker with whom the child resides; or

7 (3) the Administration when:

8 (i) it has accepted an assignment of support under § 5–312(b)(2)  
9 of the Human Services Article; or

10 (ii) the child has been placed in the care and custody of the  
11 State.

12 (d) "Tribunal" has the meaning stated in § 10–301(z) of this title.

13 10–1A–02.

14 (a) (1) An affidavit of support may be executed in the manner provided  
15 under this section if:

16 (i) a party is receiving child support enforcement services under  
17 Title IV, Part D, of the Social Security Act;

18 (ii) paternity of the child has been established;

19 (iii) a support conference has been conducted in which the  
20 Administration determined the amount of support in accordance with the child  
21 support guidelines provided in Title 12, Subtitle 2 of this article; and

22 (iv) the support conference resulted in an agreement by the  
23 parties.

24 (2) (i) The Administration shall set the amount of the support  
25 obligation in accordance with the guidelines.

26 (ii) Unless the Administration determines that application of  
27 the guidelines would be unjust or inappropriate in a particular case, the amount  
28 specified in the guidelines shall apply.

1 (iii) In determining whether application of the guidelines is  
2 unjust or inappropriate, the Administration may consider the factors stated in §  
3 12–202 of this article.

4 (iv) If the Administration finds that application of the guidelines  
5 is unjust or inappropriate in a particular case, the Administration shall make a  
6 written finding on the record stating the reasons for departing from the guidelines.

7 (v) The Administration’s finding shall state:

8 1. the amount of child support that would have been  
9 required under the guidelines;

10 2. how the affidavit of support varies from the  
11 guidelines;

12 3. how the finding serves the best interests of the child;  
13 and

14 4. in cases in which items of value are conveyed instead  
15 of a portion of the support presumed under the guidelines, the estimated value of the  
16 items conveyed.

17 (b) **(1) IN THE ABSENCE OF AN AGREEMENT UNDER SUBSECTION**  
18 **(A)(1)(IV) OF THIS SECTION, THE AMOUNT OF THE SUPPORT OBLIGATION**  
19 **CALCULATED IN ACCORDANCE WITH THE GUIDELINES OR ANY DEVIATION AS**  
20 **PROVIDED UNDER SUBSECTION (A)(2) OF THIS SECTION SHALL CONSTITUTE A**  
21 **PRESUMPTIVE SUPPORT OBLIGATION WITHOUT PREJUDICE TO THE RIGHTS OF**  
22 **EITHER PARTY.**

23 **(2) EITHER PARTY MAY:**

24 **(I) SEEK A JUDICIAL DETERMINATION OF SUPPORT; OR**

25 **(II) CHALLENGE THE PRESUMPTIVE SUPPORT OBLIGATION**  
26 **AS PROVIDED UNDER SUBSECTION (E) OF THIS SECTION.**

27 **(3) THE PRESUMPTIVE SUPPORT OBLIGATION ESTABLISHED**  
28 **UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL REMAIN IN EFFECT UNTIL**  
29 **OTHERWISE DETERMINED OR MODIFIED BY THE COURT.**

30 **(C) An affidavit of support OR PRESUMPTIVE SUPPORT OBLIGATION shall**  
31 **be completed on a standardized form developed by the Administration.**



- 1                                   2.     the child dies;
- 2                                   3.     the child marries; or
- 3                                   4.     the child becomes self-supporting;

4                                   (xiv) a statement that the provisions of the affidavit of support  
5 **OR PRESUMPTIVE SUPPORT OBLIGATION** remain in effect until superseded by:

- 6                                   1.     a court order; or
- 7                                   2.     a subsequently executed affidavit of support;

8                                   (xv) any information that the Administration considers  
9 appropriate; and

10                                  (xvi) the signatures of all parties and the date of the signatures.

11                                  (2)     Before completing an affidavit of support form, the parties shall be  
12 advised orally and in writing of the legal consequences of executing the affidavit and of  
13 the right to seek legal counsel.

14                                  **(3)     IN THE ABSENCE OF A COMPLETED AFFIDAVIT OF SUPPORT,**  
15 **THE PARTIES SHALL BE ADVISED ORALLY AND IN WRITING OF THE LEGAL**  
16 **CONSEQUENCES OF A PRESUMPTIVE SUPPORT OBLIGATION, THE RIGHT TO**  
17 **SEEK LEGAL COUNSEL, AND THE RIGHT TO HAVE THE SUPPORT ORDER**  
18 **DETERMINED BY THE COURT.**

19                                  **[(3)] (4)**     The Administration shall provide each party with a copy of  
20 the executed affidavit of support **OR PRESUMPTIVE SUPPORT OBLIGATION**.

21                                  **[(d)] (E)**     An executed affidavit of support **OR PRESUMPTIVE SUPPORT**  
22 **OBLIGATION** constitutes a legal finding of a support obligation, subject to the right of  
23 any party to[:

24                                  (1)     rescind the affidavit in writing to the Administration within 60  
25 days after execution of the affidavit; or

26                                  (2)]     challenge the affidavit of support [in court on the basis of fraud,  
27 duress, or material mistake of fact or that the affidavit of support is not in accordance  
28 with the child support guidelines] **OR PRESUMPTIVE SUPPORT OBLIGATION BY**  
29 **FILING A PETITION WITH THE COURT FOR JUDICIAL DETERMINATION OF**  
30 **SUPPORT.**

1            **[(e) (F)**        [Within 30 days after expiration of the 60–day recission period  
2 specified in subsection (d)(1) of this section, the] **THE** Administration shall file **BY**  
3 **MOTION** an affidavit of support **OR PRESUMPTIVE SUPPORT OBLIGATION** with the  
4 clerk of a circuit court for approval by the court.

5            SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2013.