

SENATE BILL 23

D4

9lr0093

(PRE-FILED)

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

Requested: October 31, 2018

Introduced and read first time: January 9, 2019

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Child Support – Lien Against Monetary Award**

3 FOR the purpose of requiring the Child Support Administration to include in a certain
4 notice of arrearage notice that a continued child support arrearage may result in
5 placement of a certain lien against a certain monetary award under certain
6 circumstances; establishing that child support arrears constitute a lien by operation
7 of law against the net recovery of a certain monetary award up to the maximum lien
8 amount; requiring a monetary award recipient to provide certain information to a
9 certain paying agent, except under certain circumstances; authorizing a paying
10 agent to use certain services to conduct a certain judgment search in a certain
11 manner under certain circumstances; authorizing a paying agent to deduct a fee for
12 a certain judgment search from any payment owed to an award recipient; requiring
13 a paying agent to take certain actions under certain circumstances; prohibiting a
14 paying agent from charging the Administration a certain fee; requiring a certain
15 claimant to provide certain information to the Workers' Compensation Commission
16 under certain circumstances; requiring the Workers' Compensation Commission to
17 take certain actions under certain circumstances; requiring the Administration to
18 take certain actions under certain circumstances; authorizing an award recipient to
19 request that the Administration investigate the withholding of certain funds under
20 the Act in a certain manner; authorizing the Administration to apply certain funds
21 to an award recipient's child support arrears under certain circumstances;
22 authorizing an award recipient to withdraw a request for a certain investigation in
23 a certain manner; requiring the Administration to conduct a certain investigation
24 under certain circumstances; specifying procedures for an appeal by an award
25 recipient to the Office of Administrative Hearings; providing for the construction and
26 application of this Act; authorizing the Secretary to adopt regulations to carry out
27 this Act; providing certain immunity to a paying agent under certain circumstances;
28 defining certain terms; and generally relating to child support.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Family Law
3 Section 10–108
4 Annotated Code of Maryland
5 (2012 Replacement Volume and 2018 Supplement)

6 BY adding to
7 Article – Family Law
8 Section 10–119.4
9 Annotated Code of Maryland
10 (2012 Replacement Volume and 2018 Supplement)

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

13 **Article – Family Law**

14 10–108.

15 (a) The Administration shall:

16 (1) coordinate a statewide program for support enforcement;

17 (2) maintain a central registry of records on absent parents as required
18 under § 12–105 of this article;

19 (3) locate absent parents;

20 (4) determine the ability of an absent parent to pay child support;

21 (5) accept assignment of right, title, or interest in child support made under
22 § 5–312(b)(2) of the Human Services Article;

23 (6) in any case in which an assignment is made under § 5–312(b)(2) of the
24 Human Services Article, prosecute and maintain any legal or equitable action available to
25 establish each absent parent’s obligation to pay child support;

26 (7) cooperate with other states in establishing and enforcing child support
27 obligations;

28 (8) collect and disburse support payments through the State disbursement
29 unit established under § 10–108.7 of this subtitle; and

30 (9) use established legal processes to enforce court orders to pay support.

31 (b) Except in a county that has a local support enforcement office, the
32 Administration is the agency that is responsible for support enforcement in all cases where

1 a court orders an obligor to make support payments to a public agency:

2 (1) as the payee; or

3 (2) as collection agent for the payee.

4 (c) (1) In this subsection, “notice of arrearage” means a written notice provided
5 by the Administration:

6 (i) to an obligor who is in arrears in making child support payments;
7 and

8 (ii) relating to the arrearage.

9 (2) If the Administration sends a notice of arrearage within the first 120
10 days that the obligor is in arrears in making child support payments, the Administration
11 shall include notice that continued arrearage may result in:

12 (I) revocation or denial of a license under § 10–119.3 of this subtitle;

13 AND

14 (II) PLACEMENT OF A LIEN AGAINST A MONETARY AWARD
15 UNDER § 10–119.4 OF THIS SUBTITLE.

16 **10–119.4.**

17 (A) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, IN THIS
18 SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

19 (2) “AWARD RECIPIENT” MEANS A PERSON WHO RECEIVES OR IS TO
20 RECEIVE A MONETARY AWARD, INCLUDING A CLAIMANT UNDER THE MARYLAND
21 WORKERS’ COMPENSATION ACT.

22 (3) “CLAIMANT” MEANS AN INDIVIDUAL WHO MAKES A CLAIM UNDER
23 THE MARYLAND WORKERS’ COMPENSATION ACT.

24 (4) “COMMISSION” MEANS THE MARYLAND WORKERS’
25 COMPENSATION COMMISSION.

26 (5) “INTERCEPT DATE” MEANS THE DATE THAT THE PAYING AGENT
27 OR COMMISSION NOTIFIES THE AWARD RECIPIENT THAT MONEY IS BEING
28 WITHHELD FROM A MONETARY AWARD FOR CHILD SUPPORT ARREARS.

29 (6) “MAXIMUM LIEN AMOUNT” MEANS THE MAXIMUM AMOUNT OF A
30 NET RECOVERY THAT IS SUBJECT TO EXECUTION FOR CHILD SUPPORT ARREARS

1 UNDER § 11-504(I)(2) OF THE COURTS ARTICLE.

2 (7) "MONETARY AWARD" MEANS A LUMP SUM PAYABLE TO AN AWARD
3 RECIPIENT FOR SICKNESS, ACCIDENT, INJURY, OR DEATH OF ANY PERSON,
4 INCLUDING COMPENSATION FOR LOSS OF FUTURE EARNINGS, PAID AS A RESULT OF
5 A CLAIM, A SUIT, A JUDGMENT, ARBITRATION, A SETTLEMENT, OR A COMPROMISE,
6 WHETHER PAID IN ACCORDANCE WITH THE MARYLAND WORKERS' COMPENSATION
7 ACT OR BY A PROPERTY AND CASUALTY INSURER, INCLUDING A SELF-INSURER,
8 AUTHORIZED TO DO BUSINESS IN THE STATE.

9 (8) "NET RECOVERY" MEANS THE SUM OF MONEY TO BE DISTRIBUTED
10 TO AN AWARD RECIPIENT AFTER DEDUCTION OF ATTORNEY'S FEES AND EXPENSES,
11 MEDICAL BILLS, AND THE SATISFACTION OF ANY LIENS OR SUBROGATION CLAIMS
12 ARISING OUT OF THE SICKNESS, ACCIDENT, INJURY, OR DEATH THAT RESULTED IN
13 THE MONETARY AWARD, INCLUDING THOSE ARISING UNDER:

14 (I) THE MEDICARE SECONDARY PAYER ACT, 42 U.S.C. §
15 1395Y;

16 (II) A PROGRAM OF THE DEPARTMENT OF HEALTH FOR WHICH
17 A RIGHT OF SUBROGATION EXISTS UNDER §§ 15-120 AND 15-121.1 OF THE HEALTH
18 - GENERAL ARTICLE;

19 (III) AN EMPLOYEE BENEFIT PLAN SUBJECT TO THE FEDERAL
20 EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974; OR

21 (IV) A HEALTH INSURANCE CONTRACT.

22 (9) (I) "PAYING AGENT" MEANS THE PERSON RESPONSIBLE FOR
23 DISTRIBUTION OF THE MONETARY AWARD.

24 (II) "PAYING AGENT" INCLUDES:

25 1. THE AWARD RECIPIENT'S ATTORNEY, IF AN ATTORNEY
26 REPRESENTED THE AWARD RECIPIENT FOR THE SICKNESS, ACCIDENT, INJURY, OR
27 DEATH THAT RESULTED IN THE MONETARY AWARD; OR

28 2. IF THE AWARD RECIPIENT WAS NOT REPRESENTED BY
29 AN ATTORNEY, THE EMPLOYER, PROPERTY AND CASUALTY INSURER, OR
30 SELF-INSURER WHO IS TO PAY THE MONETARY AWARD TO THE AWARD RECIPIENT.

31 (B) CHILD SUPPORT ARREARS CONSTITUTE A LIEN BY OPERATION OF LAW
32 AGAINST THE NET RECOVERY OF A MONETARY AWARD UP TO THE MAXIMUM LIEN

1 AMOUNT.

2 (C) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (D) OF THIS
3 SECTION, BEFORE A PAYING AGENT MAY DISTRIBUTE FUNDS TO AN AWARD
4 RECIPIENT, THE AWARD RECIPIENT MUST PROVIDE TO THE PAYING AGENT:

5 (1) A STATEMENT MADE UNDER THE PENALTIES OF PERJURY THAT
6 INCLUDES THE AWARD RECIPIENT'S:

7 (I) FULL NAME;

8 (II) MAILING ADDRESS;

9 (III) DATE OF BIRTH; AND

10 (IV) SOCIAL SECURITY NUMBER; AND

11 (2) WRITTEN DOCUMENTATION FROM THE ADMINISTRATION, DATED
12 WITHIN 20 DAYS BEFORE THE DATE THE AWARD RECIPIENT IS TO RECEIVE THE NET
13 RECOVERY FROM THE PAYING AGENT, INDICATING:

14 (I) THE AMOUNT OF THE AWARD RECIPIENT'S ARREARS; OR

15 (II) THAT THE AWARD RECIPIENT DOES NOT OWE ARREARS.

16 (D) (1) IN LIEU OF RECEIVING THE INFORMATION DESCRIBED IN
17 SUBSECTION (C) OF THIS SECTION FROM THE AWARD RECIPIENT, THE PAYING
18 AGENT MAY USE THE SERVICES OF A PRIVATE JUDGMENT SEARCH COMPANY
19 APPROVED BY THE ADMINISTRATION OR THE CHILD SUPPORT ENFORCEMENT LIEN
20 PROGRAM OPERATED THROUGH A CENTRAL REPORTING AGENCY IF ONE IS
21 APPROVED BY THE ADMINISTRATION.

22 (2) THE PAYING AGENT MAY DEDUCT THE FEE FOR THE JUDGMENT
23 SEARCH DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION FROM ANY PAYMENT
24 OWED TO THE AWARD RECIPIENT.

25 (E) (1) IF THE AWARD RECIPIENT OWES ARREARS, THE PAYING AGENT
26 SHALL:

27 (I) WITHHOLD THE LESSER OF THE AMOUNT OF THE ARREARS
28 OR THE MAXIMUM LIEN AMOUNT AND PROMPTLY FORWARD THE WITHHELD AMOUNT
29 TO THE ADMINISTRATION TO BE APPLIED TO THE AWARD RECIPIENT'S ARREARS;

1 **(II) PROMPTLY PAY ANY REMAINING PORTION OF THE NET**
2 **RECOVERY NOT SUBJECT TO OTHER LIENS TO THE AWARD RECIPIENT; AND**

3 **(III) SEND A NOTICE TO THE ADMINISTRATION AND THE AWARD**
4 **RECIPIENT OF:**

5 1. **THE AMOUNT PAID TO THE ADMINISTRATION; AND**

6 2. **THE AWARD RECIPIENT'S RIGHT TO CHALLENGE THE**
7 **WITHHOLDING UNDER SUBSECTION (H) OF THIS SECTION.**

8 **(2) NOTHING IN THIS SECTION MAY PROVIDE A BASIS FOR A PAYING**
9 **AGENT TO DELAY THE PAYMENT OF THE REMAINING PORTION OF THE NET**
10 **RECOVERY TO THE AWARD RECIPIENT UNDER PARAGRAPH (1)(II) OF THIS**
11 **SUBSECTION.**

12 **(3) THE AWARD RECIPIENT'S EXERCISE OF THE RIGHT TO**
13 **CHALLENGE THE WITHHOLDING DOES NOT RELIEVE THE PAYING AGENT OF THE**
14 **DUTY TO FORWARD PAYMENT TO THE ADMINISTRATION.**

15 **(4) THE PAYING AGENT MAY NOT CHARGE THE ADMINISTRATION A**
16 **FEE FOR THE PAYING AGENT'S ACTIONS UNDER THIS SECTION.**

17 **(F) (1) BEFORE THE COMMISSION MAY APPROVE A LUMP SUM**
18 **SETTLEMENT OR AWARD TO A CLAIMANT, THE CLAIMANT MUST PROVIDE TO THE**
19 **COMMISSION:**

20 **(I) A STATEMENT MADE UNDER THE PENALTIES OF PERJURY**
21 **THAT INCLUDES THE CLAIMANT'S:**

22 1. **FULL NAME;**

23 2. **MAILING ADDRESS;**

24 3. **DATE OF BIRTH; AND**

25 4. **SOCIAL SECURITY NUMBER; AND**

26 **(II) WRITTEN DOCUMENTATION FROM THE ADMINISTRATION,**
27 **DATED WITHIN 20 DAYS AFTER THE DATE THE COMMISSION IS TO CONSIDER THE**
28 **SETTLEMENT OR AWARD, INDICATING:**

29 1. **THE AMOUNT OF THE CLAIMANT'S ARREARS; OR**

1 **2. THAT THE CLAIMANT DOES NOT OWE ARREARS.**

2 **(2) IF THE CLAIMANT OWES ARREARS, THE COMMISSION SHALL**
3 **ORDER THAT:**

4 **(I) PAYMENT OF THE LESSER OF THE AMOUNT OF THE ARREARS**
5 **OR THE MAXIMUM LIEN AMOUNT PROMPTLY BE SENT TO THE ADMINISTRATION TO**
6 **BE APPLIED TO THE CLAIMANT'S ARREARS; AND**

7 **(II) THE REMAINING PORTION OF THE NET RECOVERY NOT**
8 **SUBJECT TO OTHER LIENS BE PAID TO THE CLAIMANT.**

9 **(3) THE COMMISSION'S ORDER SHALL:**

10 **(I) BE SENT TO THE ADMINISTRATION, THE CLAIMANT, AND**
11 **ALL PARTIES TO THE PROCEEDING BEFORE THE COMMISSION;**

12 **(II) STATE THE AMOUNT TO BE PAID TO THE ADMINISTRATION;**
13 **AND**

14 **(III) INFORM THE CLAIMANT OF THE RIGHT TO CHALLENGE THE**
15 **WITHHOLDING UNDER SUBSECTION (H) OF THIS SECTION.**

16 **(4) NOTHING IN THIS SECTION SHALL PROVIDE A BASIS FOR THE**
17 **COMMISSION TO DELAY PAYMENT OF THE REMAINING PORTION OF THE NET**
18 **RECOVERY TO THE CLAIMANT UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION.**

19 **(5) THE CLAIMANT'S EXERCISE OF THE RIGHT TO CHALLENGE THE**
20 **WITHHOLDING DOES NOT RELIEVE THE COMMISSION OF THE DUTY TO FORWARD**
21 **PAYMENT TO THE ADMINISTRATION.**

22 **(G) (1) (I) ON RECEIPT OF THE FUNDS FROM THE PAYING AGENT, THE**
23 **ADMINISTRATION SHALL APPLY THE FUNDS TO THE AWARD RECIPIENT'S ARREARS.**

24 **(II) IF THE AWARD RECIPIENT HAS MORE THAN ONE SUPPORT**
25 **CASE WITH ARREARS, THE ADMINISTRATION SHALL ALLOCATE THE AMOUNT**
26 **RECEIVED AMONG ONE OR MORE OF THE AWARD RECIPIENT'S CASES, AS**
27 **DETERMINED APPROPRIATE BY THE ADMINISTRATION.**

28 **(2) IF THE ADMINISTRATION DETERMINES THAT THE AMOUNT IT**
29 **RECEIVED EXCEEDS THE AMOUNT OF THE AWARD RECIPIENT'S ARREARS, THE**
30 **ADMINISTRATION SHALL PAY THE EXCESS AMOUNT TO THE AWARD RECIPIENT.**

1 **(H) (1) AN AWARD RECIPIENT MAY REQUEST THAT THE ADMINISTRATION**
2 **INVESTIGATE THE WITHHOLDING BY FILING A WRITTEN REQUEST FOR**
3 **INVESTIGATION WITH THE ADMINISTRATION SETTING FORTH THE REASONS FOR**
4 **THE REQUEST.**

5 **(2) THE REQUEST MAY BE BASED SOLELY ON ONE OF THE**
6 **FOLLOWING:**

7 **(I) THERE IS NO ARREARAGE;**

8 **(II) THE AMOUNT OF THE ARREARAGE IS INCORRECT; OR**

9 **(III) THE AWARD RECIPIENT IS NOT THE INDIVIDUAL WHO OWES**
10 **THE ARREARS.**

11 **(3) (I) A REQUEST FOR INVESTIGATION SHALL BE RECEIVED BY**
12 **THE ADMINISTRATION WITHIN 30 DAYS AFTER THE INTERCEPT DATE.**

13 **(II) IF A TIMELY REQUEST FOR INVESTIGATION IS NOT**
14 **RECEIVED BY THE ADMINISTRATION, THE ADMINISTRATION MAY APPLY THE FUNDS**
15 **TO THE AWARD RECIPIENT'S ARREARS.**

16 **(4) AN AWARD RECIPIENT MAY WITHDRAW A REQUEST FOR**
17 **INVESTIGATION BY SUBMITTING A NOTICE OF THE WITHDRAWAL TO THE**
18 **ADMINISTRATION.**

19 **(I) (1) ON RECEIPT OF A REQUEST FOR INVESTIGATION FROM AN AWARD**
20 **RECIPIENT UNDER SUBSECTION (H) OF THIS SECTION, THE ADMINISTRATION SHALL**
21 **CONDUCT AN INVESTIGATION.**

22 **(2) (I) AFTER THE INVESTIGATION, IF THE ADMINISTRATION**
23 **FINDS THAT THERE IS NO ARREARAGE, OR THAT THE AWARD RECIPIENT IS NOT THE**
24 **INDIVIDUAL WHO OWES THE ARREARS, THE ADMINISTRATION SHALL REFUND THE**
25 **FULL AMOUNT OF THE FUNDS RECEIVED FROM THE PAYING AGENT TO THE AWARD**
26 **RECIPIENT.**

27 **(II) AFTER THE INVESTIGATION, IF THE ADMINISTRATION**
28 **FINDS THAT THERE IS AN ARREARAGE BUT IT IS LESS THAN THE AMOUNT RECEIVED**
29 **FROM THE PAYING AGENT, THE ADMINISTRATION SHALL CORRECT ITS RECORDS**
30 **AND REFUND THE EXCESS AMOUNT TO THE AWARD RECIPIENT.**

31 **(III) AFTER THE INVESTIGATION, IF THE ADMINISTRATION**

1 FINDS THAT THE AWARD RECIPIENT OWES ARREARS IN AN AMOUNT EQUAL TO OR
2 GREATER THAN THE AMOUNT RECEIVED FROM THE PAYING AGENT, THE
3 ADMINISTRATION SHALL APPLY THE FUNDS TO THE AWARD RECIPIENT'S ARREARS.

4 (3) (I) ON COMPLETION OF THE INVESTIGATION, THE
5 ADMINISTRATION SHALL SEND THE AWARD RECIPIENT NOTICE BY FIRST-CLASS
6 MAIL OF THE OUTCOME OF THE INVESTIGATION.

7 (II) THE NOTICE SHALL INFORM THE AWARD RECIPIENT OF THE
8 RIGHT TO APPEAL THE ADMINISTRATION'S DECISION TO THE OFFICE OF
9 ADMINISTRATIVE HEARINGS WITHIN 30 DAYS AFTER THE DATE OF THE NOTICE.

10 (J) (1) AN APPEAL TO THE OFFICE OF ADMINISTRATIVE HEARINGS MAY
11 BE BASED SOLELY ON ONE OF THE FOLLOWING:

12 (I) THERE IS NO ARREARAGE;

13 (II) THE AMOUNT OF THE ARREARAGE IS INCORRECT; OR

14 (III) THE AWARD RECIPIENT IS NOT THE INDIVIDUAL WHO OWES
15 THE ARREARS.

16 (2) AN APPEAL TO THE OFFICE OF ADMINISTRATIVE HEARINGS
17 AUTHORIZED UNDER THIS SECTION SHALL BE CONDUCTED IN ACCORDANCE WITH
18 TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

19 (3) AN AWARD RECIPIENT MAY WITHDRAW AN APPEAL REQUEST BY
20 SUBMITTING A NOTICE OF THE WITHDRAWAL TO THE OFFICE OF ADMINISTRATIVE
21 HEARINGS BEFORE THE HEARING DATE.

22 (4) (I) AFTER THE COMPLETION OF AN APPEAL, IF THE OFFICE OF
23 ADMINISTRATIVE HEARINGS FINDS THAT THERE IS NO ARREARAGE, OR THAT THE
24 AWARD RECIPIENT IS NOT THE INDIVIDUAL WHO OWES THE ARREARS, THE
25 ADMINISTRATION SHALL REFUND THE FULL AMOUNT OF THE FUNDS RECEIVED
26 FROM THE PAYING AGENT TO THE AWARD RECIPIENT.

27 (II) AFTER THE COMPLETION OF AN APPEAL, IF THE OFFICE OF
28 ADMINISTRATIVE HEARINGS FINDS THAT THERE IS AN ARREARAGE BUT IT IS LESS
29 THAN THE AMOUNT RECEIVED FROM THE PAYING AGENT, THE ADMINISTRATION
30 SHALL CORRECT ITS RECORDS AND REFUND THE EXCESS AMOUNT TO THE AWARD
31 RECIPIENT.

32 (III) AFTER THE COMPLETION OF AN APPEAL, IF THE OFFICE OF

1 ADMINISTRATIVE HEARINGS FINDS THAT THE AWARD RECIPIENT OWES ARREARS IN
2 AN AMOUNT EQUAL TO OR GREATER THAN THE AMOUNT RECEIVED FROM THE
3 PAYING AGENT, THE ADMINISTRATION SHALL APPLY THE FUNDS TO THE AWARD
4 RECIPIENT'S ARREARS.

5 (5) IF THE AWARD RECIPIENT DOES NOT FILE A TIMELY APPEAL TO
6 THE OFFICE OF ADMINISTRATIVE HEARINGS, THE ADMINISTRATION MAY APPLY
7 THE FUNDS TO THE AWARD RECIPIENT'S ARREARS.

8 (K) (1) THE PROCEDURES ESTABLISHED IN THIS SECTION MAY BE USED
9 EXCLUSIVELY FOR THE PURPOSE OF COLLECTING DELINQUENT CHILD SUPPORT.

10 (2) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT THE
11 ADMINISTRATION FROM COLLECTING DELINQUENT CHILD SUPPORT IN ANY OTHER
12 MANNER AUTHORIZED BY LAW.

13 (L) THE SECRETARY MAY ADOPT REGULATIONS TO CARRY OUT THIS
14 SECTION.

15 (M) (1) A PAYING AGENT WHO, IN GOOD FAITH, MAKES A DISTRIBUTION
16 TO THE ADMINISTRATION IN ACCORDANCE WITH THIS SECTION SHALL BE IMMUNE
17 FROM ANY CIVIL, CRIMINAL, OR ADMINISTRATIVE PENALTIES FOR MAKING AN
18 ERRONEOUS DISTRIBUTION.

19 (2) NOTHING IN THIS SECTION MAY GIVE RISE TO A CLAIM OR CAUSE
20 OF ACTION AGAINST A PAYING AGENT OR THE COMMISSION BY A PERSON WHO
21 ASSERTS THAT THE PERSON IS THE INTENDED OBLIGEE OF THE OUTSTANDING LIEN
22 FOR CHILD SUPPORT.

23 (N) THIS SECTION DOES NOT APPLY TO ANY MONETARY AWARD DUE TO AN
24 AWARD RECIPIENT WHO IS UNDER THE AGE OF 12 YEARS.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2019.