

SB1035



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1035

Introduced 2/8/2007, by Sen. John J. Cullerton - Emil Jones, Jr.

SYNOPSIS AS INTRODUCED:

750 ILCS 28/20

Amends the Income Withholding for Support Act. Makes a technical change in a Section concerning income withholding notices.

LRB095 05929 AJO 26021 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Income Withholding for Support Act is
5 amended by changing Section 20 as follows:

6 (750 ILCS 28/20)

7 Sec. 20. Entry of order for support containing income
8 withholding provisions; income withholding notice.

9 (a) In addition to any content required under other laws,
10 every order for support entered on or after July 1, 1997,
11 shall:

12 (1) Require an income withholding notice to be prepared
13 and ~~and~~ served immediately upon any payor of the obligor by
14 the obligee or public office, unless a written agreement is
15 reached between and signed by both parties providing for an
16 alternative arrangement, approved and entered into the
17 record by the court, which ensures payment of support. In
18 that case, the order for support shall provide that an
19 income withholding notice is to be prepared and served only
20 if the obligor becomes delinquent in paying the order for
21 support; and

22 (2) Contain a dollar amount to be paid until payment in
23 full of any delinquency that accrues after entry of the

1 order for support. The amount for payment of delinquency
2 shall not be less than 20% of the total of the current
3 support amount and the amount to be paid periodically for
4 payment of any arrearage stated in the order for support;
5 and

6 (3) Include the obligor's Social Security Number,
7 which the obligor shall disclose to the court. If the
8 obligor is not a United States citizen, the obligor shall
9 disclose to the court, and the court shall include in the
10 order for support, the obligor's alien registration
11 number, passport number, and home country's social
12 security or national health number, if applicable.

13 (b) At the time the order for support is entered, the Clerk
14 of the Circuit Court shall provide a copy of the order to the
15 obligor and shall make copies available to the obligee and
16 public office.

17 (c) The income withholding notice shall:

18 (1) be in the standard format prescribed by the federal
19 Department of Health and Human Services; and

20 (1.1) state the date of entry of the order for support
21 upon which the income withholding notice is based; and

22 (2) direct any payor to withhold the dollar amount
23 required for current support under the order for support;
24 and

25 (3) direct any payor to withhold the dollar amount
26 required to be paid periodically under the order for

1 support for payment of the amount of any arrearage stated
2 in the order for support; and

3 (4) direct any payor or labor union or trade union to
4 enroll a child as a beneficiary of a health insurance plan
5 and withhold or cause to be withheld, if applicable, any
6 required premiums; and

7 (5) state the amount of the payor income withholding
8 fee specified under this Section; and

9 (6) state that the amount actually withheld from the
10 obligor's income for support and other purposes, including
11 the payor withholding fee specified under this Section, may
12 not be in excess of the maximum amount permitted under the
13 federal Consumer Credit Protection Act; and

14 (7) state the duties of the payor and the fines and
15 penalties for failure to withhold and pay over income and
16 for discharging, disciplining, refusing to hire, or
17 otherwise penalizing the obligor because of the duty to
18 withhold and pay over income under this Section; and

19 (8) state the rights, remedies, and duties of the
20 obligor under this Section; and

21 (9) include the Social Security number of the obligor;
22 and

23 (10) include the date that withholding for current
24 support terminates, which shall be the date of termination
25 of the current support obligation set forth in the order
26 for support; and

1 (11) contain the signature of the obligee or the
2 printed name and telephone number of the authorized
3 representative of the public office, except that the
4 failure to contain the signature of the obligee or the
5 printed name and telephone number of the authorized
6 representative of the public office shall not affect the
7 validity of the income withholding notice; and

8 (12) direct any payor to pay over amounts withheld for
9 payment of support to the State Disbursement Unit.

10 (d) The accrual of a delinquency as a condition for service
11 of an income withholding notice, under the exception to
12 immediate withholding in subsection (a) of this Section, shall
13 apply only to the initial service of an income withholding
14 notice on a payor of the obligor.

15 (e) Notwithstanding the exception to immediate withholding
16 contained in subsection (a) of this Section, if the court finds
17 at the time of any hearing that an arrearage has accrued, the
18 court shall order immediate service of an income withholding
19 notice upon the payor.

20 (f) If the order for support, under the exception to
21 immediate withholding contained in subsection (a) of this
22 Section, provides that an income withholding notice is to be
23 prepared and served only if the obligor becomes delinquent in
24 paying the order for support, the obligor may execute a written
25 waiver of that condition and request immediate service on the
26 payor.

1 (g) The obligee or public office may serve the income
2 withholding notice on the payor or its superintendent, manager,
3 or other agent by ordinary mail or certified mail return
4 receipt requested, by facsimile transmission or other
5 electronic means, by personal delivery, or by any method
6 provided by law for service of a summons. At the time of
7 service on the payor and as notice that withholding has
8 commenced, the obligee or public office shall serve a copy of
9 the income withholding notice on the obligor by ordinary mail
10 addressed to his or her last known address. A copy of the
11 income withholding notice together with proofs of service on
12 the payor and the obligor shall be filed with the Clerk of the
13 Circuit Court.

14 (h) At any time after the initial service of an income
15 withholding notice, any other payor of the obligor may be
16 served with the same income withholding notice without further
17 notice to the obligor. A copy of the income withholding notice
18 together with a proof of service on the other payor shall be
19 filed with the Clerk of the Circuit Court.

20 (i) New service of an income withholding notice is not
21 required in order to resume withholding of income in the case
22 of an obligor with respect to whom an income withholding notice
23 was previously served on the payor if withholding of income was
24 terminated because of an interruption in the obligor's
25 employment of less than 180 days.

26 (Source: P.A. 94-43, eff. 1-1-06.)