

AN ACT concerning civil law.

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

Section 5. The Income Withholding for Support Act is amended by changing Sections 20 and 22 as follows:

(750 ILCS 28/20)

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

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

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

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

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

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

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

(c) The income withholding notice shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) The obligee or public office may serve the income withholding notice on the payor or its superintendent, manager, or other agent by ordinary mail or certified mail return receipt requested, by facsimile transmission or other electronic means, by personal delivery, or by any method provided by law for service of a summons. At the time of service on the payor and as notice that withholding has commenced, the obligee or public office shall serve a copy of the income withholding notice on the obligor by ordinary mail addressed to his or her last known address. A copy of an income withholding notice and proof of service shall be filed with the Clerk of the Circuit Court only when necessary in connection with a petition to contest, modify, suspend, terminate, or correct an income withholding notice, an action to enforce income withholding against a payor, or the resolution of other disputes involving an income withholding notice. The changes made to this subsection by this amendatory Act of the 96th General Assembly apply on and after September 1, 2009. ~~A copy of the income withholding notice together with proofs of service on the payor and the obligor shall be filed with the Clerk of the Circuit Court.~~

(h) At any time after the initial service of an income withholding notice, any other payor of the obligor may be served with the same income withholding notice without further notice to the obligor. A copy of the income withholding notice together with a proof of service on the other payor shall be

filed with the Clerk of the Circuit Court.

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

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

(750 ILCS 28/22)

Sec. 22. Use of National Medical Support Notice to enforce health insurance coverage.

(a) Notwithstanding the provisions of subdivision (c)(4) of Section 20, when an order for support is being enforced by the Title IV-D Agency under this Act, any requirement for health insurance coverage to be provided through an employer, including withholding of premiums from the income of the obligor, shall be enforced through use of a National Medical Support Notice instead of through provisions in an income withholding notice.

(b) A National Medical Support Notice may be served on the employer in the manner and under the circumstances provided for serving an income withholding notice under this Act, except that an order for support that conditions service of an income withholding notice on the obligor becoming delinquent in paying the order for support, as provided under subdivision (a)(1) of

Section 20, shall not prevent immediate service of a National Medical Support Notice by the Title IV-D Agency. The Title IV-D Agency may serve a National Medical Support Notice on an employer in conjunction with service of an income withholding notice. Service of an income withholding notice is not a condition for service of a National Medical Support Notice, however.

(c) At the time of service of a National Medical Support Notice on the employer, the Title IV-D Agency shall serve a copy of the Notice on the obligor by ordinary mail addressed to the obligor's last known address. A copy of a National Medical Support Notice and proof of service shall be filed with the Clerk of the Circuit Court only when necessary in connection with a petition to contest, modify, suspend, terminate, or correct a National Medical Support Notice, an action to enforce compliance with a National Medical Support Notice, or the resolution of other disputes involving a National Medical Support Notice. The changes made to this subsection by this amendatory Act of the 96th General Assembly apply on and after September 1, 2009. ~~The Title IV-D Agency shall file a copy of the National Medical Support Notice, together with proofs of service on the employer and the obligor, with the clerk of the circuit court.~~

(d) Within 20 business days after the date of a National Medical Support Notice, an employer served with the Notice shall transfer the severable notice to plan administrator to

the appropriate group health plan providing any health insurance coverage for which the child is eligible. As required in the part of the National Medical Support Notice directed to the employer, the employer shall withhold any employee premium necessary for coverage of the child and shall send any amount withheld directly to the plan. The employer shall commence the withholding no later than the next payment of income that occurs 14 days following the date the National Medical Support Notice was mailed, sent by facsimile or other electronic means, or placed for personal delivery to or service on the employer.

Notwithstanding the requirement to withhold premiums from the obligor's income, if the plan administrator informs the employer that the child is enrolled in an option under the plan for which the employer has determined that the obligor's premium exceeds the amount that may be withheld from the obligor's income due to the withholding limitation or prioritization contained in Section 35 of this Act, the employer shall complete the appropriate item in the part of the National Medical Support Notice directed to the employer according to the instructions in the Notice and shall return that part to the Title IV-D Agency.

(e) If one of the following circumstances exists, an employer served with a National Medical Support Notice shall complete the part of the Notice directed to the employer in accordance with the instructions in the Notice and shall return that part to the Title IV-D Agency within 20 business days

after the date of the Notice:

(1) The employer does not maintain or contribute to plans providing dependent or family health insurance coverage.

(2) The obligor is among a class of employees that is not eligible for family health insurance coverage under any group health plan maintained by the employer or to which the employer contributes.

(3) Health insurance coverage is not available because the obligor is no longer employed by the employer.

(f) The administrator of a health insurance plan to whom an employer has transferred the severable notice to plan administrator part of a National Medical Support Notice shall complete that part with the health insurance coverage information required under the instructions in the Notice and shall return that part to the Title IV-D Agency within 40 business days after the date of the Notice.

(g) The obligor may contest withholding under this Section based only on a mistake of fact and may contest withholding by filing a petition with the clerk of the circuit court within 20 days after service of a copy of the National Medical Support Notice on the obligor. The obligor must serve a copy of the petition on the Title IV-D Agency at the address stated in the National Medical Support Notice. The National Medical Support Notice, including the requirement to withhold any required premium, shall continue to be binding on the employer until the

employer is served with a court order resolving the contest or until notified by the Title IV-D Agency.

(h) Whenever the obligor is no longer receiving income from the employer, the employer shall return a copy of the National Medical Support Notice to the Title IV-D Agency and shall provide information for the purpose of enforcing health insurance coverage under this Section.

(i) The Title IV-D Agency shall promptly notify the employer when there is no longer a current order for health insurance coverage in effect which the Title IV-D Agency is responsible for enforcing.

(j) Unless stated otherwise in this Section, all of the provisions of this Act relating to income withholding for support shall pertain to income withholding for health insurance coverage under a National Medical Support Notice, including but not limited to the duties of the employer and obligor, and the penalties contained in Section 35 and Section 50. In addition, an employer who willfully fails to transfer the severable notice to plan administrator part of a National Medical Support Notice to the appropriate group health plan providing health insurance coverage for which the child is eligible, within 20 business days after the date of the Notice, is liable for the full amount of medical expenses incurred by or on behalf of the child which would have been paid or reimbursed by the health insurance coverage had the severable notice to plan administrator part of the Notice been timely

transferred to the group health insurance plan. This penalty may be collected in a civil action that may be brought against the employer in favor of the obligee or the Title IV-D Agency.

(k) To the extent that any other State or local law may be construed to limit or prevent compliance by an employer or health insurance plan administrator with the requirements of this Section and federal law and regulations pertaining to the National Medical Support Notice, that State or local law shall not apply.

(l) As the Title IV-D Agency, the Department of Healthcare and Family Services shall adopt any rules necessary for use of and compliance with the National Medical Support Notice.

(Source: P.A. 95-331, eff. 8-21-07.)

Section 99. Effective date. This Act takes effect upon becoming law.