

§2306. Immediate withholding of earnings

1. Withholding order. A decision establishing or modifying a child support obligation under section 2304 must conform with this subsection.

A. The decision must provide for the withholding of amounts payable as child support, effective from the date of the decision, from the responsible parent's earnings, regardless of whether support payments by the responsible parent are in arrears. The withholding order must:

- (1) Specify the amount of earnings to be withheld. The amount must include \$2 per week in addition to the amount to be withheld for child support;
- (2) Specify the support enforcement case number; and
- (3) Direct that, upon receipt of a copy of the withholding order, a payor of earnings to the responsible parent shall:
 - (a) Immediately begin to withhold those earnings when earnings are usually paid to the responsible parent; and
 - (b) Send each amount of earnings withheld to the department at the address set forth in the withholding order within 7 business days after each withholding of earnings. [PL 1997, c. 669, §5 (AMD).]

B. This subsection does not apply if:

- (1) A party demonstrates and the hearing officer finds that there is good cause not to require immediate withholding under this section; or
- (2) A written agreement between the parties providing an alternative arrangement is filed with the hearing officer. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
[PL 1997, c. 669, §5 (AMD).]

2. Priority of order. Notwithstanding any other law, a withholding order under this section has priority over any previously filed attachment, execution, garnishment or assignment of earnings that is not made for the purpose of enforcing or paying a child support obligation.
[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

3. Obligations of payor of earnings. This subsection governs the obligations of a payor of earnings under this section.

A. Upon receipt of a copy of a withholding order, a payor of earnings to the responsible parent shall:

- (1) Immediately begin to withhold earnings of the responsible parent when earnings are usually paid to the responsible parent; and
- (2) Send each amount of earnings withheld to the department at the address set forth in the withholding order within 7 business days after each withholding. [PL 1997, c. 537, §41 (AMD); PL 1997, c. 537, §62 (AFF).]

B. The payor shall include with all remittances of withheld earnings the responsible parent's support enforcement case number set forth in the withholding order. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

C. The payor may combine amounts withheld for transmittal to the department from more than one responsible parent if the portion attributable to each responsible parent is separately designated, except that the payor may not combine amounts if that action would result in a responsible parent's withheld earnings being sent to the department more than 7 business days from the withholding date. [PL 1997, c. 669, §6 (AMD).]

D. The balance of earnings due the responsible parent must be paid to the responsible parent on the day that the responsible parent is usually paid. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
[PL 1997, c. 669, §6 (AMD).]

4. Duration of order. A withholding order is binding upon the payor of earnings to the responsible parent until:

A. The order is superseded by another withholding order issued by the department under this subchapter; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

B. The decision establishing the support obligation is superseded by a court order; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

C. The payor has been released from the withholding order in writing by the department; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

D. The child:

(1) If not attending secondary school, as defined in Title 20-A, section 1, becomes 18 years of age; or

(2) If attending secondary school, as defined in Title 20-A, section 1:

(a) Graduates, withdraws or is expelled from secondary school; or

(b) Becomes 19 years of age; or [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

E. The child is emancipated or adopted. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

5. Payor to be held harmless. A payor of earnings to the responsible parent who honors a withholding order under this section is discharged from any liability or obligation to the responsible parent for earnings withheld in compliance with the order. The department shall defend and hold harmless a payor for honoring the order.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

6. Notice of termination of payor-payee relationship. When the relationship between the payor of earnings and the responsible parent that provides for the payment of earnings to the responsible parent, whether the relationship is that of employer and employee or any other, is terminated, the payor shall, within 15 days of the termination, send the department a written notice of the termination. The notice must include:

A. The responsible parent's name, last known address and social security number; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

B. The support enforcement case number; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

C. The date of termination of the relationship of payor and payee; and [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

D. If known, the name and address of any new or other payor of earnings to the responsible parent. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

7. Liability of payor; violations. A payor is liable, after service of the withholding order, for any earnings the payor fails to withhold and send to the department within 7 business days of the day the payee is usually paid. The department may maintain an action against the payor for the earnings the

payor did not withhold and send to the department or for the imposition of any of the following civil penalties, or both, plus attorney's fees and court costs.

A. A payor who knowingly fails to withhold earnings on the day earnings are usually paid to the responsible parent commits a civil violation for which a forfeiture of not more than \$100 may be adjudged for each failure to withhold. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

B. A payor who knowingly fails to send withheld earnings to the department within 7 business days of the withholding commits a civil violation for which a forfeiture of not more than \$100 may be adjudged for each failure to timely send withheld earnings. [PL 1997, c. 669, §7 (AMD).]

C. A payor who knowingly fails to send the notification required by subsection 6 commits a civil violation for which a forfeiture of not more than \$100 may be adjudged. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

D. A payor who discharges from employment or refuses to employ a responsible parent, or who takes disciplinary action against a responsible parent employed by the payor, or who otherwise discriminates against the responsible parent because of the existence of the withholding order or the obligations imposed upon the payor by the order, is subject to a civil penalty of not more than \$5,000, payable to the State, to be recovered in a civil action. The payor is also subject to an action by the responsible parent for compensatory and punitive damages for those actions, plus attorney's fees and court costs. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).] [PL 1997, c. 669, §7 (AMD).]

8. Other remedies. A withholding order under this section does not bar any judicial or administrative enforcement or collection action otherwise available under federal or state law regarding child or spousal support arrearages or a debt for public assistance under section 2301. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

PL 1995, c. 694, Pt. B, §2 (NEW). PL 1995, c. 694, Pt. E, §2 (AFF). PL 1997, c. 537, §41 (AMD). PL 1997, c. 537, §62 (AFF). PL 1997, c. 669, §§5-7 (AMD).

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