

§2358. Order to withhold and deliver

The commissioner shall proceed as follows with respect to any order to withhold and deliver. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

1. Service of order. The commissioner may serve on any person an order to withhold and deliver any property, including wages, that is due or belongs to the responsible parent when:

A. A lien has been filed pursuant to former Title 19, section 503 or 503-A or section 2357; or [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

B. Twenty-one days have elapsed from the date of receipt of a notice of debt under section 2352 or 30 days after the date of mailing to a responsible parent of a decision of the department that requires the responsible parent to pay child support. [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).]

2. Notice to responsible parent. When an order is issued, the department shall send a copy of the order to the responsible parent by regular mail at the responsible parent's last known address.

[PL 1997, c. 466, §22 (RPR); PL 1997, c. 466, §28 (AFF).]

3. Order; contents. The order to withhold and deliver must state the amount of the support debt accrued and accruing and the terms of former Title 19, section 503 or 503-A or sections 2357 and 2366 and demand a listing of property, including wages, that is due or belongs to the responsible parent.

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

4. Answer. A person served with an order to withhold and deliver shall answer the order within 20 days of receipt of the order.

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

5. Withhold and deliver. A person served with an order to withhold and deliver shall withhold immediately any property, including wages, due to or belonging to the responsible parent. After 20 days from the date of receipt of this order and upon demand of the commissioner, the property of the responsible parent must be delivered to the commissioner. An order to withhold and deliver issued by an out-of-state child support agency or court must be honored by a financial institution authorized to do business in this State as defined in Title 9-B, section 131, subsection 17-A or credit union authorized to do business in this State as defined in Title 9-B, section 131, subsection 12-A.

[PL 2005, c. 352, §10 (AMD).]

6. Delivery of money. If the money is due under an express or implied contract, or if money is held subject to withdrawal by the responsible parent, the money must be delivered by check payable to the Treasurer of State.

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

7. Bond as alternative. Instead of the property of the responsible parent, the commissioner may accept a bond conditioned upon final determination of liability.

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

8. Effect of honoring order. A person who honors an order to withhold and deliver is discharged from any liability or obligation to the responsible parent for that property. The department warrants that it will defend and hold harmless any such persons for honoring the order.

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

9. Term of order. The order to withhold and deliver remains in effect, requiring withholding of each successive earnings disbursement, until the amount of debt stated in the order has been withheld.

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

10. Priority of order. Notwithstanding any other provision of law, the order to withhold and deliver has absolute priority over previously filed orders against assets, earnings and assignments of earnings not for the enforcement of a child support obligation.

[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. 466, §22 (AMD). PL 1997, c. 466, §28 (AFF). PL 2005, c. 352, §10 (AMD).

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