

HOUSE BILL 647

D4

0lr0030

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

Introduced and read first time: January 29, 2020

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Child Support – Reporting of Employment Information**

3 FOR the purpose of transferring, from the Labor and Employment Article to the Family
4 Law Article, certain provisions of law relating to the reporting of certain employment
5 information concerning certain individuals for certain purposes relating to child
6 support collection; transferring, from the Secretary of Labor to the Secretary of
7 Human Services, certain duties and authority relating to the reporting of certain
8 employment information concerning certain individuals for certain purposes relating
9 to child support collection; making certain conforming changes; altering a certain
10 definition; defining certain terms; making certain stylistic changes; and generally
11 relating to child support.

12 BY repealing and reenacting, without amendments,
13 Article – Labor and Employment
14 Section 8–101(a) and (p)
15 Annotated Code of Maryland
16 (2016 Replacement Volume and 2019 Supplement)

17 BY repealing
18 Article – Labor and Employment
19 Section 8–626.1 and 8–627
20 Annotated Code of Maryland
21 (2016 Replacement Volume and 2019 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Family Law
24 Section 10–101
25 Annotated Code of Maryland
26 (2019 Replacement Volume)

27 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Family Law
Section 10–139 and 10–139.1
Annotated Code of Maryland
(2019 Replacement Volume)

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

Article – Labor and Employment

8–101.

(a) In this title the following words have the meanings indicated.

(p) “Employing unit” means:

(1) an employer that has at least 1 employee engaged in covered employment for at least part of a day;

(2) an employer that has elected to become subject to this title under § 8–203 of this title; or

(3) an employer that is not otherwise subject to this title but that:

(i) within the current or preceding calendar year, is liable for any federal tax against which credit may be taken for contributions required to be paid into a State unemployment fund; or

(ii) as a condition for approval for full credit of contributions against the tax imposed by the Federal Unemployment Tax Act, is required by that Act to be an employing unit.

[8–626.1.

(a) In this section, “date of employment” means the date on which an employee commences working for an employing unit.

(b) Except as provided in subsection (c) of this section, within 20 days of an employee’s beginning employment, the employee’s employing unit shall submit to the Secretary:

(1) the Social Security number of the employee;

(2) the name of the employee;

(3) the address of the employee;

(4) the date of employment;

(5) the employing unit's name and address;

(6) the employee's starting wage;

(7) whether the employee has health insurance provided by the employing unit;

(8) the federal employer identification number of the employing unit; and

(9) the State unemployment insurance account number of the employing unit.

(c) (1) The employing unit shall report the required information by:

(i) mail;

(ii) magnetically or electronically; or

(iii) other means as determined by the Secretary.

(2) If an employing unit chooses to transmit data magnetically or electronically at a rate of twice per month, then the report must be submitted not less than 12 days or more than 16 days apart.

(3) (i) An employing unit that has employees in two or more states and that transmits reports magnetically or electronically may designate one state in which to transmit the report.

(ii) An employing unit that chooses to transmit the data to another state shall provide the Secretary with the name of the state receiving the report.

(d) (1) Any employing unit that fails to report as required:

(i) shall be given a written warning for the first violation; and

(ii) shall be subject to a civil penalty of \$20 for each month in which a subsequent violation occurs, or \$500 if the failure is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report, unless the Secretary waives the penalty for cause.

(2) All violations occurring in a single month to the same employing unit shall be considered a single violation.

(e) An assessment under this section is final unless, within 15 days after the mailing of the assessment, an employing unit applies to the Secretary for a hearing. The

1 Secretary may forward the application to the Office of Administrative Hearings for
2 adjudication.

3 (f) The Department of Human Services shall reimburse the Secretary for all costs
4 incurred to carry out this section.]

5 [8-627.

6 (a) (1) Except as provided in subsections (b) and (c) of this section, on request
7 of the Secretary, an employing unit shall provide to the Secretary a report of the separation
8 from employment of an individual.

9 (2) An employing unit who submits a separation notice under this
10 subsection shall:

11 (i) complete the notice on a form or in a manner that the Secretary
12 requires; and

13 (ii) submit the notice no later than the 8th calendar day after the
14 day of the request.

15 (3) On request, an employing unit who submits a separation notice under
16 this subsection also shall submit to the Secretary a report of the wages of any of its
17 employees.

18 (b) (1) An employing unit shall submit to the Secretary a single notice for a
19 group of employees if the employing unit lays off at least 25 employees for the same reason
20 at or about the same time in a single establishment for a period that is permanent,
21 indefinite, or expected to exceed 7 days.

22 (2) A notice under this subsection shall:

23 (i) state the reason for the layoff; and

24 (ii) list the name and Social Security number of each employee whom
25 the layoff affects.

26 (c) (1) An employing unit shall submit to the Secretary a single notice for a
27 group of employees who become unemployed because of a labor dispute.

28 (2) A notice under this subsection shall:

29 (i) state the existence of the labor dispute without any statement
30 about the nature of the dispute; and

31 (ii) list the name and Social Security number of each employee whom
32 the labor dispute affects.

(d) If the Secretary finds that the character or type of employment makes application of this section to a class of employers unreasonably onerous or impractical, the Secretary by regulation may exempt the class from the requirements of this section.

(e) (1) An employer that fails to submit a separation notice or report of wages under subsection (a) of this section is subject to a penalty of \$15 for each notice unless the Secretary waives the penalty for cause.

(2) An employer that submits a check or other negotiable instrument returned for insufficient funds in payment of any penalty under this subsection is subject to an additional penalty of \$25.]

Article – Family Law

10–101.

(a) In this title the following words have the meanings indicated.

(b) “Administration” means the Child Support Administration of the Department of Human Services.

(c) “Earnings” includes:

(1) any form of periodic payment to an individual, including:

(i) an annuity;

(ii) a pension;

(iii) Social Security payments;

(iv) workers’ compensation payments; and

(v) unemployment insurance benefits; [and]

(2) any commissions or fees paid in connection with the obligor’s employment; AND

(3) ANY PAYMENT RECEIVED BY AN INDEPENDENT CONTRACTOR THAT IS REPORTED ON IRS FORM 1099.

(d) (1) “Employer” means any person who is paying earnings to an obligor.

(2) “Employer” includes a governmental entity.

(E) “EMPLOYING UNIT” MEANS AN EMPLOYER THAT:

(1) HAS AT LEAST ONE EMPLOYEE ENGAGED IN COVERED EMPLOYMENT, AS DEFINED IN § 8–101 OF THE LABOR AND EMPLOYMENT ARTICLE, FOR AT LEAST PART OF A DAY;

(2) HAS ELECTED TO BECOME SUBJECT TO TITLE 8 OF THE LABOR AND EMPLOYMENT ARTICLE UNDER § 8–203 OF THE LABOR AND EMPLOYMENT ARTICLE; OR

(3) IS NOT OTHERWISE SUBJECT TO TITLE 8 OF THE LABOR AND EMPLOYMENT ARTICLE BUT THAT:

(I) WITHIN THE CURRENT OR PRECEDING CALENDAR YEAR, IS LIABLE FOR ANY FEDERAL TAX AGAINST WHICH CREDIT MAY BE TAKEN FOR CONTRIBUTIONS REQUIRED TO BE PAID INTO A STATE UNEMPLOYMENT FUND; OR

(II) AS A CONDITION FOR APPROVAL FOR FULL CREDIT OF CONTRIBUTIONS AGAINST THE TAX IMPOSED BY THE FEDERAL UNEMPLOYMENT TAX ACT, IS REQUIRED BY THAT ACT TO BE AN EMPLOYING UNIT.

(F) “INDEPENDENT CONTRACTOR” MEANS A PERSON OR GOVERNMENTAL ENTITY THAT RECEIVES EARNINGS FROM AN EMPLOYING UNIT THAT ARE REPORTED ON IRS FORM 1099.

[(e)] (G) “Local support enforcement office” means 1 of the following that is responsible for support enforcement:

(1) a county agency; or

(2) a component of the circuit court for a county.

[(f)] (H) (1) “Obligee” means any person who is entitled to receive support.

(2) “Obligee” includes a state.

[(g)] (I) “Obligor” means an individual who is required to pay support under a court order.

[(h)] (J) “Support” includes:

(1) child support;

(2) spousal support;

(3) support of destitute adult children; and

(4) support of destitute parents.

[(i)] (K) “Support enforcement agency” means 1 of the following that receives support payments under a court order:

(1) the Administration; or

(2) a local support enforcement office.

10–139.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “DATE OF EMPLOYMENT” MEANS THE DATE ON WHICH AN EMPLOYEE COMMENCES WORKING FOR AN EMPLOYING UNIT.

(3) “EMPLOYEE” INCLUDES AN INDEPENDENT CONTRACTOR.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, WITHIN 20 DAYS AFTER AN EMPLOYEE BEGINS EMPLOYMENT, THE EMPLOYEE’S EMPLOYING UNIT SHALL SUBMIT TO THE SECRETARY:

(1) THE SOCIAL SECURITY NUMBER OF THE EMPLOYEE;

(2) THE NAME OF THE EMPLOYEE;

(3) THE ADDRESS OF THE EMPLOYEE;

(4) THE DATE OF EMPLOYMENT;

(5) THE EMPLOYING UNIT’S NAME AND ADDRESS;

(6) THE EMPLOYEE’S STARTING WAGE;

(7) A STATEMENT INDICATING WHETHER THE EMPLOYEE HAS HEALTH INSURANCE PROVIDED BY THE EMPLOYING UNIT;

(8) THE FEDERAL EMPLOYER IDENTIFICATION NUMBER OF THE EMPLOYING UNIT; AND

(9) THE STATE UNEMPLOYMENT INSURANCE ACCOUNT NUMBER OF

1 THE EMPLOYING UNIT.

2 (C) (1) THE EMPLOYING UNIT SHALL REPORT INFORMATION REQUIRED
3 UNDER SUBSECTION (B) OF THIS SECTION:

4 (I) BY MAIL;

5 (II) MAGNETICALLY OR ELECTRONICALLY; OR

6 (III) BY OTHER MEANS AS DETERMINED BY THE SECRETARY.

7 (2) IF AN EMPLOYING UNIT CHOOSES TO TRANSMIT DATA
8 MAGNETICALLY OR ELECTRONICALLY AT A RATE OF TWICE PER MONTH, THE
9 REPORT MUST BE SUBMITTED NOT LESS THAN 12 DAYS NOR MORE THAN 16 DAYS
10 APART.

11 (3) AN EMPLOYING UNIT THAT HAS EMPLOYEES IN TWO OR MORE
12 STATES AND THAT TRANSMITS REPORTS MAGNETICALLY OR ELECTRONICALLY MAY
13 DESIGNATE ONE STATE IN WHICH TO TRANSMIT THE REPORT.

14 (4) AN EMPLOYING UNIT THAT CHOOSES TO TRANSMIT THE DATA TO
15 ANOTHER STATE SHALL PROVIDE THE SECRETARY WITH THE NAME OF THE STATE
16 RECEIVING THE REPORT.

17 (D) (1) ANY EMPLOYING UNIT THAT FAILS TO REPORT AS REQUIRED
18 SHALL BE:

19 (I) GIVEN A WRITTEN WARNING FOR THE FIRST VIOLATION;
20 AND

21 (II) SUBJECT TO A CIVIL PENALTY OF \$20 FOR EACH MONTH IN
22 WHICH A SUBSEQUENT VIOLATION OCCURS, OR \$500 IF THE FAILURE IS THE RESULT
23 OF A CONSPIRACY BETWEEN THE EMPLOYER AND THE EMPLOYEE TO NOT SUPPLY
24 THE REQUIRED REPORT OR TO SUPPLY A FALSE OR INCOMPLETE REPORT, UNLESS
25 THE SECRETARY WAIVES THE PENALTY FOR CAUSE.

26 (2) ALL VIOLATIONS BY THE SAME EMPLOYING UNIT OCCURRING IN A
27 SINGLE MONTH SHALL BE CONSIDERED A SINGLE VIOLATION.

28 (E) (1) AN ASSESSMENT UNDER THIS SECTION IS FINAL UNLESS, WITHIN
29 15 DAYS AFTER THE MAILING OF THE ASSESSMENT, AN EMPLOYING UNIT APPLIES
30 TO THE SECRETARY FOR A HEARING.

1 **(2) THE SECRETARY MAY FORWARD THE APPLICATION TO THE**
2 **OFFICE OF ADMINISTRATIVE HEARINGS FOR ADJUDICATION.**

3 **10-139.1.**

4 **(A) IN THIS SECTION, "EMPLOYEE" INCLUDES AN INDEPENDENT**
5 **CONTRACTOR.**

6 **(B) (1) EXCEPT AS PROVIDED IN SUBSECTIONS (C) AND (D) OF THIS**
7 **SECTION, ON REQUEST OF THE SECRETARY, AN EMPLOYING UNIT SHALL PROVIDE**
8 **TO THE SECRETARY A REPORT OF THE SEPARATION FROM EMPLOYMENT OF AN**
9 **INDIVIDUAL.**

10 **(2) AN EMPLOYING UNIT THAT SUBMITS A SEPARATION NOTICE**
11 **UNDER THIS SUBSECTION SHALL:**

12 **(I) COMPLETE THE NOTICE ON A FORM OR IN A MANNER THAT**
13 **THE SECRETARY REQUIRES; AND**

14 **(II) SUBMIT THE NOTICE NOT LATER THAN 8 DAYS AFTER THE**
15 **DAY OF THE REQUEST.**

16 **(3) ON REQUEST, AN EMPLOYING UNIT THAT SUBMITS A SEPARATION**
17 **NOTICE UNDER THIS SUBSECTION ALSO SHALL SUBMIT TO THE SECRETARY A**
18 **REPORT ON THE WAGES OF ANY OF ITS EMPLOYEES.**

19 **(C) (1) AN EMPLOYING UNIT SHALL SUBMIT TO THE SECRETARY A**
20 **SINGLE NOTICE FOR A GROUP OF EMPLOYEES IF THE EMPLOYING UNIT LAYS OFF AT**
21 **LEAST 25 EMPLOYEES FOR THE SAME REASON AT OR ABOUT THE SAME TIME IN A**
22 **SINGLE ESTABLISHMENT FOR A PERIOD THAT IS PERMANENT, INDEFINITE, OR**
23 **EXPECTED TO EXCEED 7 DAYS.**

24 **(2) A NOTICE UNDER THIS SUBSECTION SHALL:**

25 **(I) STATE THE REASON FOR THE LAYOFF; AND**

26 **(II) LIST THE NAME AND SOCIAL SECURITY NUMBER OF EACH**
27 **EMPLOYEE WHOM THE LAYOFF AFFECTS.**

28 **(D) (1) AN EMPLOYING UNIT SHALL SUBMIT TO THE SECRETARY A**
29 **SINGLE NOTICE FOR A GROUP OF EMPLOYEES WHO BECOME UNEMPLOYED BECAUSE**
30 **OF A LABOR DISPUTE.**

1 **(2) A NOTICE UNDER THIS SUBSECTION SHALL:**

2 **(I) STATE THE EXISTENCE OF THE LABOR DISPUTE WITHOUT**
3 **ANY STATEMENT ABOUT THE NATURE OF THE DISPUTE; AND**

4 **(II) LIST THE NAME AND SOCIAL SECURITY NUMBER OF EACH**
5 **EMPLOYEE WHOM THE LABOR DISPUTE AFFECTS.**

6 **(E) IF THE SECRETARY FINDS THAT THE CHARACTER OR TYPE OF**
7 **EMPLOYMENT MAKES APPLICATION OF THIS SECTION TO A CLASS OF EMPLOYERS**
8 **UNREASONABLY ONEROUS OR IMPRACTICAL, THE SECRETARY BY REGULATION MAY**
9 **EXEMPT THE CLASS FROM THE REQUIREMENTS OF THIS SECTION.**

10 **(F) (1) AN EMPLOYER THAT FAILS TO SUBMIT A SEPARATION NOTICE OR**
11 **REPORT OF WAGES UNDER SUBSECTION (B) OF THIS SECTION IS SUBJECT TO A**
12 **PENALTY OF \$15 FOR EACH NOTICE UNLESS THE SECRETARY WAIVES THE PENALTY**
13 **FOR CAUSE.**

14 **(2) AN EMPLOYER THAT, IN PAYMENT OF ANY PENALTY UNDER THIS**
15 **SUBSECTION, SUBMITS A CHECK OR OTHER NEGOTIABLE INSTRUMENT THAT IS**
16 **RETURNED FOR INSUFFICIENT FUNDS IS SUBJECT TO AN ADDITIONAL PENALTY OF**
17 **\$25.**

18 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
19 **October 1, 2020.**