

SENATE BILL 706

D4

3lr0034

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

Introduced and read first time: February 6, 2023

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: March 2, 2023

CHAPTER _____

1 AN ACT concerning

2 **Child Support – Reporting of Employment Information – Independent**
3 **Contractors**

4 FOR the purpose of altering the definition of “earnings” in certain provisions of law relating
5 to child support enforcement to include certain payments received by independent
6 contractors; establishing certain procedures for the reporting of certain employment
7 information concerning certain independent contractors to the Child Support
8 Administration for certain purposes related to child support enforcement; and
9 generally relating to child support.

10 BY repealing and reenacting, with amendments,
11 Article – Family Law
12 Section 10–101
13 Annotated Code of Maryland
14 (2019 Replacement Volume and 2022 Supplement)

15 BY adding to
16 Article – Family Law
17 Section 10–139
18 Annotated Code of Maryland
19 (2019 Replacement Volume and 2022 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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] EMPLOYEE’S employment; AND

(3) ANY PAYMENT RECEIVED BY AN INDEPENDENT CONTRACTOR:

(I) FROM AN EMPLOYER FOR SERVICES PROVIDED BY THE INDEPENDENT CONTRACTOR IN THE COURSE OF THE EMPLOYER’S TRADE OR BUSINESS; AND

(II) THAT THE EMPLOYER REPORTS OR EXPECTS TO REPORT ON IRS FORM 1099.

(d) **“EMPLOYEE” MEANS AN INDIVIDUAL WHO IS EMPLOYED BY AN EMPLOYER FOR A WAGE OR OTHER COMPENSATION IN THE TRADE OR BUSINESS OF THE EMPLOYER.**

(E) (1) “Employer” means any person who is paying earnings to an [obligor] EMPLOYEE.

(2) “Employer” includes:

(I) a governmental entity; AND

(II) A PERSON WHO IS PAYING EARNINGS TO AN INDEPENDENT CONTRACTOR FOR SERVICES PROVIDED IN THE COURSE OF THE EMPLOYER'S TRADE OR BUSINESS THAT THE EMPLOYER REPORTS OR EXPECTS TO REPORT ON IRS FORM 1099.

(F) "INDEPENDENT CONTRACTOR" MEANS A PERSON WHO:

(1) PROVIDES SERVICES TO AN EMPLOYER IN THE COURSE OF THE EMPLOYER'S TRADE OR BUSINESS; AND

(2) RECEIVES EARNINGS FROM AN EMPLOYER THAT THE EMPLOYER REPORTS OR EXPECTS TO REPORT 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.

1 **10-139.**

2 (A) IN THIS SECTION, "DATE OF EMPLOYMENT" MEANS THE DATE ON WHICH
3 AN INDEPENDENT CONTRACTOR COMMENCES PROVIDING SERVICES FOR AN
4 EMPLOYER.

5 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, WITHIN 20
6 DAYS AFTER AN INDEPENDENT CONTRACTOR BEGINS EMPLOYMENT, THE
7 INDEPENDENT CONTRACTOR'S EMPLOYER SHALL SUBMIT TO THE
8 ADMINISTRATION:

9 (1) THE SOCIAL SECURITY NUMBER OF THE INDEPENDENT
10 CONTRACTOR;

11 (2) THE NAME OF THE INDEPENDENT CONTRACTOR;

12 (3) THE ADDRESS OF THE INDEPENDENT CONTRACTOR;

13 (4) THE DATE OF EMPLOYMENT;

14 (5) THE EMPLOYER'S NAME AND ADDRESS;

15 (6) THE INDEPENDENT CONTRACTOR'S RATE OF COMPENSATION OR
16 EARNINGS;

17 (7) A STATEMENT INDICATING WHETHER THE INDEPENDENT
18 CONTRACTOR HAS HEALTH INSURANCE PROVIDED BY THE EMPLOYER; AND

19 (8) THE FEDERAL EMPLOYER IDENTIFICATION NUMBER OF THE
20 EMPLOYER.

21 (C) (1) THE EMPLOYER SHALL REPORT INFORMATION REQUIRED UNDER
22 SUBSECTION (B) OF THIS SECTION:

23 (I) BY MAIL;

24 (II) MAGNETICALLY OR ELECTRONICALLY; OR

25 (III) BY OTHER MEANS AS DETERMINED BY THE
26 ADMINISTRATION.

27 (2) IF AN EMPLOYER CHOOSES TO TRANSMIT DATA MAGNETICALLY

OR ELECTRONICALLY AT A RATE OF TWICE PER MONTH, THE REPORTS MUST BE SUBMITTED NOT LESS THAN 12 DAYS NOR MORE THAN 16 DAYS APART.

(D) (1) AN EMPLOYER THAT FAILS TO REPORT AS REQUIRED SHALL BE:

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

(II) 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 INDEPENDENT CONTRACTOR TO NOT SUPPLY THE REQUIRED REPORT OR TO SUPPLY A FALSE OR INCOMPLETE REPORT, UNLESS THE ADMINISTRATION WAIVES THE PENALTY FOR CAUSE.

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

(E) (1) AN ASSESSMENT UNDER THIS SECTION IS FINAL UNLESS, WITHIN 15 DAYS AFTER THE MAILING OF THE ASSESSMENT, THE EMPLOYER APPLIES TO THE ADMINISTRATION FOR A HEARING.

(2) THE ADMINISTRATION MAY FORWARD THE APPLICATION TO THE OFFICE OF ADMINISTRATIVE HEARINGS FOR ADJUDICATION.

(F) AN EMPLOYER THAT IN GOOD FAITH REPORTS INFORMATION TO THE ADMINISTRATION IN ACCORDANCE WITH THIS SECTION IS NOT LIABLE FOR THE DISCLOSURE UNDER STATE LAW.

(G) THE SECRETARY OF HUMAN SERVICES MAY ADOPT RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.