



Sen. A. J. Wilhelmi

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LRB096 07151 AJ0 30024 a

1 AMENDMENT TO SENATE BILL 931

2 AMENDMENT NO. _____. Amend Senate Bill 931 by replacing
3 everything after the enacting clause with the following:

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

6 (750 ILCS 28/20)

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

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

12 (1) Require an income withholding notice to be prepared
13 and served immediately upon any payor of the obligor by the
14 obligee or public office, unless a written agreement is
15 reached between and signed by both parties providing for an
16 alternative arrangement, approved and entered into the

1 record by the court, which ensures payment of support. In
2 that case, the order for support shall provide that an
3 income withholding notice is to be prepared and served only
4 if the obligor becomes delinquent in paying the order for
5 support; and

6 (2) Contain a dollar amount to be paid until payment in
7 full of any delinquency that accrues after entry of the
8 order for support. The amount for payment of delinquency
9 shall not be less than 20% of the total of the current
10 support amount and the amount to be paid periodically for
11 payment of any arrearage stated in the order for support;
12 and

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

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

24 (c) The income withholding notice shall:

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

1 (1.1) state the date of entry of the order for support
2 upon which the income withholding notice is based; and

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

6 (3) direct any payor to withhold the dollar amount
7 required to be paid periodically under the order for
8 support for payment of the amount of any arrearage stated
9 in the order for support; and

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

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

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

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

26 (8) state the rights, remedies, and duties of the

1 obligor under this Section; and

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

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

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

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

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

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

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

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

1 ~~service on the payor and the obligor shall be filed with the~~
2 ~~Clerk of the Circuit Court.~~

3 (h) At any time after the initial service of an income
4 withholding notice, any other payor of the obligor may be
5 served with the same income withholding notice without further
6 notice to the obligor. A copy of the income withholding notice
7 together with a proof of service on the other payor shall be
8 filed with the Clerk of the Circuit Court.

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

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

16 (750 ILCS 28/22)

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

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

1 withholding notice.

2 (b) A National Medical Support Notice may be served on the
3 employer in the manner and under the circumstances provided for
4 serving an income withholding notice under this Act, except
5 that an order for support that conditions service of an income
6 withholding notice on the obligor becoming delinquent in paying
7 the order for support, as provided under subdivision (a) (1) of
8 Section 20, shall not prevent immediate service of a National
9 Medical Support Notice by the Title IV-D Agency. The Title IV-D
10 Agency may serve a National Medical Support Notice on an
11 employer in conjunction with service of an income withholding
12 notice. Service of an income withholding notice is not a
13 condition for service of a National Medical Support Notice,
14 however.

15 (c) At the time of service of a National Medical Support
16 Notice on the employer, the Title IV-D Agency shall serve a
17 copy of the Notice on the obligor by ordinary mail addressed to
18 the obligor's last known address. A copy of a National Medical
19 Support Notice and proof of service shall be filed with the
20 Clerk of the Circuit Court only when necessary in connection
21 with a petition to contest, modify, suspend, terminate, or
22 correct a National Medical Support Notice, an action to enforce
23 compliance with a National Medical Support Notice, or the
24 resolution of other disputes involving a National Medical
25 Support Notice. The changes made to this subsection by this
26 amendatory Act of the 96th General Assembly apply on and after

1 September 1, 2009. ~~The Title IV-D Agency shall file a copy of~~
2 ~~the National Medical Support Notice, together with proofs of~~
3 ~~service on the employer and the obligor, with the clerk of the~~
4 ~~circuit court.~~

5 (d) Within 20 business days after the date of a National
6 Medical Support Notice, an employer served with the Notice
7 shall transfer the severable notice to plan administrator to
8 the appropriate group health plan providing any health
9 insurance coverage for which the child is eligible. As required
10 in the part of the National Medical Support Notice directed to
11 the employer, the employer shall withhold any employee premium
12 necessary for coverage of the child and shall send any amount
13 withheld directly to the plan. The employer shall commence the
14 withholding no later than the next payment of income that
15 occurs 14 days following the date the National Medical Support
16 Notice was mailed, sent by facsimile or other electronic means,
17 or placed for personal delivery to or service on the employer.

18 Notwithstanding the requirement to withhold premiums from
19 the obligor's income, if the plan administrator informs the
20 employer that the child is enrolled in an option under the plan
21 for which the employer has determined that the obligor's
22 premium exceeds the amount that may be withheld from the
23 obligor's income due to the withholding limitation or
24 prioritization contained in Section 35 of this Act, the
25 employer shall complete the appropriate item in the part of the
26 National Medical Support Notice directed to the employer

1 according to the instructions in the Notice and shall return
2 that part to the Title IV-D Agency.

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

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

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

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

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

25 (g) The obligor may contest withholding under this Section
26 based only on a mistake of fact and may contest withholding by

1 filing a petition with the clerk of the circuit court within 20
2 days after service of a copy of the National Medical Support
3 Notice on the obligor. The obligor must serve a copy of the
4 petition on the Title IV-D Agency at the address stated in the
5 National Medical Support Notice. The National Medical Support
6 Notice, including the requirement to withhold any required
7 premium, shall continue to be binding on the employer until the
8 employer is served with a court order resolving the contest or
9 until notified by the Title IV-D Agency.

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

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

19 (j) Unless stated otherwise in this Section, all of the
20 provisions of this Act relating to income withholding for
21 support shall pertain to income withholding for health
22 insurance coverage under a National Medical Support Notice,
23 including but not limited to the duties of the employer and
24 obligor, and the penalties contained in Section 35 and Section
25 50. In addition, an employer who willfully fails to transfer
26 the severable notice to plan administrator part of a National

1 Medical Support Notice to the appropriate group health plan
2 providing health insurance coverage for which the child is
3 eligible, within 20 business days after the date of the Notice,
4 is liable for the full amount of medical expenses incurred by
5 or on behalf of the child which would have been paid or
6 reimbursed by the health insurance coverage had the severable
7 notice to plan administrator part of the Notice been timely
8 transferred to the group health insurance plan. This penalty
9 may be collected in a civil action that may be brought against
10 the employer in favor of the obligee or the Title IV-D Agency.

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

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

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

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