

SB1169



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1169

Introduced 1/30/2013, by Sen. Pat McGuire

SYNOPSIS AS INTRODUCED:

750 ILCS 28/20

Amends the Income Withholding for Support Act. Removes language providing that an income withholding notice shall include the date that withholding for current support terminates, which shall be the date of termination of the current support obligation set forth in the order for support. Effective immediately.

LRB098 02588 HEP 32593 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Income Withholding for Support Act is
5 amended by changing Section 20 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
17 record by the court, which ensures payment of support. In
18 that case, the order for support shall provide that an
19 income withholding notice is to be prepared and served only
20 if the obligor becomes delinquent in paying the order for
21 support; and

22 (2) Contain a dollar amount to be paid until payment in
23 full of any delinquency that accrues after entry of the

1 order for support. The amount for payment of delinquency
2 shall not be less than 20% of the total of the current
3 support amount and the amount to be paid periodically for
4 payment of any arrearage stated in the order for support;
5 and

6 (3) Include the obligor's Social Security Number,
7 which the obligor shall disclose to the court. If the
8 obligor is not a United States citizen, the obligor shall
9 disclose to the court, and the court shall include in the
10 order for support, the obligor's alien registration
11 number, passport number, and home country's social
12 security or national health number, if applicable.

13 (b) At the time the order for support is entered, the Clerk
14 of the Circuit Court shall provide a copy of the order to the
15 obligor and shall make copies available to the obligee and
16 public office.

17 (c) The income withholding notice shall:

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

20 (1.1) state the date of entry of the order for support
21 upon which the income withholding notice is based; and

22 (2) direct any payor to withhold the dollar amount
23 required for current support under the order for support;
24 and

25 (3) direct any payor to withhold the dollar amount
26 required to be paid periodically under the order for

1 support for payment of the amount of any arrearage stated
2 in the order for support; and

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

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

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

14 (7) in bold face type, the size of which equals the
15 largest type on the notice, state the duties of the payor
16 and the fines and penalties for failure to withhold and pay
17 over income and for discharging, disciplining, refusing to
18 hire, or otherwise penalizing the obligor because of the
19 duty to withhold and pay over income under this Section;
20 and

21 (8) state the rights, remedies, and duties of the
22 obligor under this Section; and

23 (9) include the Social Security number of the obligor;
24 and

25 (10) (blank) ~~include the date that withholding for~~
26 ~~current support terminates, which shall be the date of~~

1 ~~termination of the current support obligation set forth in~~
2 ~~the order for support; and~~

3 (11) contain the signature of the obligee or the
4 printed name and telephone number of the authorized
5 representative of the public office, except that the
6 failure to contain the signature of the obligee or the
7 printed name and telephone number of the authorized
8 representative of the public office shall not affect the
9 validity of the income withholding notice; and

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

12 (d) The accrual of a delinquency as a condition for service
13 of an income withholding notice, under the exception to
14 immediate withholding in subsection (a) of this Section, shall
15 apply only to the initial service of an income withholding
16 notice on a payor of the obligor.

17 (e) Notwithstanding the exception to immediate withholding
18 contained in subsection (a) of this Section, if the court finds
19 at the time of any hearing that an arrearage has accrued, the
20 court shall order immediate service of an income withholding
21 notice upon the payor.

22 (f) If the order for support, under the exception to
23 immediate withholding contained in subsection (a) of this
24 Section, provides that an income withholding notice is to be
25 prepared and served only if the obligor becomes delinquent in
26 paying the order for support, the obligor may execute a written

1 waiver of that condition and request immediate service on the
2 payor.

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

21 (h) At any time after the initial service of an income
22 withholding notice, any other payor of the obligor may be
23 served with the same income withholding notice without further
24 notice to the obligor. A copy of the income withholding notice
25 together with a proof of service on the other payor shall be
26 filed with the Clerk of the Circuit Court.

1 (i) New service of an income withholding notice is not
2 required in order to resume withholding of income in the case
3 of an obligor with respect to whom an income withholding notice
4 was previously served on the payor if withholding of income was
5 terminated because of an interruption in the obligor's
6 employment of less than 180 days.

7 (Source: P.A. 96-858, eff. 1-8-10; 97-994, eff. 8-17-12.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.