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HOUSE BILL NO. 840

Offered January 11, 2006

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A BILL to amend and reenact § 20-60.5 of the Code of Virginia, relating to the advance payment of support obligations.

 Patron—Frederick

 Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 20-60.5 of the Code of Virginia is amended and reenacted as follows:**

§ 20-60.5. Support payment provisions; how paid.

A. 1. Unless otherwise directed by the Committee on District Courts, in all cases in which payment of a support obligation arising under an order or decree entered prior to October 1, 1985, is made by the obligor through the office of a clerk of court, the clerk shall notify the payee and the obligor that the obligor will be directed to pay future support payments to the Department of Social Services as of the date provided in the notice.

In cases transferred from the courts to the Department of Social Services on or after October 1, 1985, the payee shall be deemed as having executed an authorization to seek or enforce a support obligation with the Department's Division of Child Support Enforcement unless the payee specifically indicates that the Division's services are not desired.

2. Unless otherwise directed by the Department of Social Services, the notice of change in payment shall be served or sent by certified mail, return receipt requested, and shall contain (i) the name of the payee and, if different in whole or in part, the names of the persons to whom an obligation of support is owed by the obligor, (ii) the name of the obligor, (iii) the amount of the periodic support payment, the due dates of such payments and any arrearages, (iv) the beginning date for sending payments to the Department of Social Services, and (v) the date by which the payee and obligor shall notify the Department of Social Services of the election to (a) have the Department of Social Services collect and disburse support payments together with forms and instructions for applying for such services or (b) have support payment made by the obligor directly to the payee. A copy of the notice also shall be transmitted to the Department of Social Services.

3. Unless otherwise directed by the Committee on District Courts, if both the obligor and the payee request in writing to the Department of Social Services that all support payments be made by the obligor directly to the payee, then the Department of Social Services shall so notify the court and the court shall enter an order to such effect. In the event an election is taken pursuant to subdivision 2 (v) (a), the notice of election shall have the same force and effect as an order of the court.

4. The above provisions shall also apply to payroll deductions made pursuant to § 20-79.1, except that only the payee and the employer shall receive such notice.

5. The change in payment provision required by subsection A shall be initiated by October 1, 1985, unless a different date is mutually agreed to by the Department of Social Services and the Committee on District Courts as to individual courts.

B. Unless a different date is mutually agreed to by the Department of Social Services and the Committee on District Courts, all orders or decrees for support entered on or after October 1, 1985, shall direct that payment be made only to the payee unless one of the parties objects, in which case the order or decree shall direct that payment be made to or through the Department of Social Services.

C. The Department of Social Services shall promptly pay to the payee all support payments collected by it which have been ordered by a court to be paid to or through the Department. The Department shall pay interest to the payee when such interest amount exceeds five dollars on a support payment as provided in § 63.2-1951.

D. If the Department of Social Services enters into a contract with a public or private entity for the processing of support payments, then, except as provided in subsection E, and notwithstanding any other provision of this section:

1. The Department shall notify the affected court of the existence of such contract and how payments are contractually required to be made to such contractors; and

2. The affected court shall include in all support orders (i) how payments are required to be made to such contractors and (ii) that payments are to be made in such manner until different payment instructions are mailed to the person making payments by the court or by the Department.

E. An employer of 10,000 persons or more shall not be required to make payments other than by

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59 combined single payment to the Department's central office in Richmond without the express written
60 consent of the employer, unless the order is from a support enforcement agency outside the
61 Commonwealth.

62 F. Upon any obligee's application for public assistance benefits or child support services, the
63 Department of Social Services may change the payee to the Department so that payment is sent to the
64 Department at its address as contained in the notice of change as described in this subsection. Upon the
65 obligee's request that support services no longer be provided, the Department may change the payee to
66 the obligee so that payment is sent to the obligee at the address provided by the obligee as contained in
67 the notice of change as described in this subsection. Notice of such change shall be served on the
68 obligor by certified mail, return receipt requested, or in accordance with Chapter 8 (§ 8.01-285 et seq.)
69 or Chapter 9 (§ 8.01-328 et seq.) of Title 8.01. The change described in the notice shall be effective as
70 to all payments paid on or after the date that notice was served regardless of when such payments were
71 due. Return of service shall be made to the Department of Social Services at the location described in
72 the notice. Upon obtaining service of the notice on the obligor, the Department of Social Services shall
73 transmit a copy of such notice together with a copy of the proof of service to the court having
74 jurisdiction for enforcement of the order and to the custodial parent.

75 G. *Unless stated otherwise, whether payment is to be made to the payee or the Department of Social*
76 *Services, the obligor shall have the right to make payments, before the date that they are due, on any*
77 *support obligation created by court order, decree, or administrative order. Any such obligor shall sign a*
78 *form stating that his obligation may increase or decrease at any time during the period of prepayment*
79 *and that he is liable for any additional obligation. The form shall also state that the Department of*
80 *Social Services is not liable for any interest on moneys returned to such obligor.*

81 *The Department of Social Services shall create a special fund (the Fund) where all prepaid*
82 *obligations shall be deposited. Moneys deposited in the Fund shall be dispersed to the appropriate*
83 *payee on warrants issued by the comptroller upon the written request of the Commissioner of the*
84 *Department.*

85 **2. That the Department of Social Services shall promulgate and administer such rules and**
86 **regulations necessary to carry out the provisions of this act.**