

§2656. Past-due support

1. Withholding order. Upon meeting the conditions of this section, the department or an obligee may use an income withholding order issued under this subchapter to collect past-due support. Past-due support may be collected in addition to or apart from current support. Notwithstanding the provisions of this section, the court may order payment of past-due support by income withholding upon a determination by the court of the amount past due. If the court so orders, the department or obligee need not proceed in accordance with this section and may issue the withholding order to collect the past-due support immediately.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

2. Collection of past-due support by department. Before the department may implement an income withholding order issued under this section to collect past-due support, the department must establish the amount of support past due, unless the amount has been established by judicial or administrative action, agreement of the parties or by operation of law.

A. If the obligor's debt for past-due support has been established by judicial or administrative action, agreement of the parties or by operation of law, the department shall serve the income withholding order upon the obligor's payor of income to collect the past-due support. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

B. If the obligor's debt for past-due support is not established, the department may establish the amount past due by proceeding under section 2352, by asking the court to determine the amount past due or by reaching agreement with the obligor as to the amount past due. Once the obligor's debt for past-due support has been established, the department shall serve the income withholding order upon the obligor's payor of income to collect the past-due support. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

3. Collection of past-due support by private action. To collect past-due support by an income withholding order issued under this subchapter, an obligee who does not receive support enforcement services from the department must:

A. Determine that the amounts payable under the support order are equal to or greater than the amount due for 30 days; and [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

B. Serve written notice of the obligee's determination of past-due support upon the obligor at least 20 days before service of the determination of past-due support and a copy of the income withholding order upon the obligor's payor of income. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

An obligee may serve an income withholding order upon the obligor's payor of income 21 days after service of the obligee's determination of past-due support upon the obligor unless the obligor files a motion for determination of past-due support with the court and an ex parte request for a stay of withholding in accordance with subsection 4. If the obligor does not file a motion for determination of past-due support with the court and request the court to issue an ex parte stay of withholding, the obligee may serve a copy of the obligee's determination of past-due support and a copy of the withholding order upon the obligor's payor of income. The obligee shall send copies of the determination of past-due support and the withholding order served upon the payor of income to the department by regular mail at the time of service. Upon receipt of the copies, the department shall issue a letter to the obligor and obligee that confirms receipt, provides a support enforcement case number to identify payments and explains the department's role as the administering agency.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

4. Stay. The court may grant a stay of the withholding of past-due support claimed upon request of the obligor as long as the obligor timely files a motion for determination of past-due support. A stay issued by the court under this subsection must expire in 60 days and may be reissued only upon a showing by the obligor that the obligor has made reasonable efforts to obtain a hearing on the motion for determination of past-due support during the stay.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

PL 1995, c. 694, §B2 (NEW). PL 1995, c. 694, §E2 (AFF).

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