

COUNCIL OF THE DISTRICT OF COLUMBIA

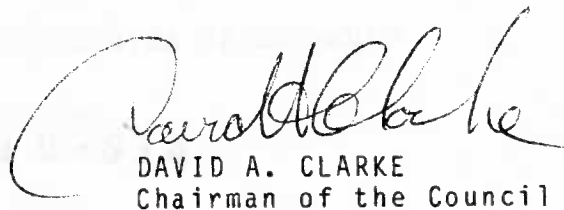
NOTICE

D.C. LAW 6-166

"D.C. Child Support Enforcement Amendment Act
of 1985".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 6-134 on first and second readings, July 8, 1986 and September 23, 1986, respectively. Following the signature of the Mayor on October 9, 1986, this legislation was assigned Act No. 6-212, published in the October 31, 1986, edition of the D.C. Register, (Vol. 33 page 6710) and transmitted to Congress on January 7, 1987 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 6-166, effective February 24, 1987.


DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January 7,8,9,12,13,14,15,16,20,21,22,23,26,27,28,29,30

February 2,3,4,5,6,9,10,11,17,18,19,20,23

DEFECTIVE DATE FEB 21 1987

AN ACT

D.C. ACT 6 - 2 1 2

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCT 9 1986

Codification,
New chapter 5 of
title 30

To establish an improved procedure for the establishment and collection of debts due and owing for the support of minor children and to amend An Act To establish a Board of Public Welfare in and for the District of Columbia, to determine its functions, and for other purposes, the District of Columbia Income and Franchise Tax Act of 1947, An Act To improve and extend, through reciprocal legislation, the enforcement of duties of support in the District of Columbia, the Employees' Garnishment Act of 1977, the District of Columbia Public Assistance Act of 1982, and title 16 of the D.C. Code for these purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the "District of Columbia Child Support Enforcement Amendment Act of 1985".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Caretaker" means a parent, relative, guardian, or other person whose needs are included in a public assistance payment for a dependent child and who is using those payments for the benefit of the dependent child.

(2) "Child support" means any payment that a responsible relative is ordered to make because of a duty of

New,
D.C. Code, sec.
30-501
(1987 supp.)

support.

(3) "Court" means the Superior Court of the District of Columbia.

(4) "Custodian" means the parent, relative, guardian, or other person with whom the dependent child resides.

(5) "Dependent child" means any child for whom the District is providing public assistance pursuant to section 201(4) of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-202(a)(4)) ("1982 Public Assistance Act"), and whose support is required by D.C. Code, sec. 16-916; or any child to whom an obligor owes a duty of support.

(6) "District" means the government of the District of Columbia.

(7) "Duty of support" means any duty of support imposed by statute or by common law; any duty of support imposed by order of the Court, decree, or judgment, whether interlocutory or final, or whether incidental to a proceeding for divorce, judicial separation, separate maintenance, or otherwise; any duty of reimbursement imposed by law for moneys expended by the District for support, including public assistance and foster care; or any duty of support imposed by any other section of this act.

(8) "Earnings" means any remuneration based on

employment including, but not limited to, wages, salaries, annuities, retirement benefits, unemployment compensation, and disability benefits.

(9) "Holder" means any person, firm, association, corporation, or government official whom the Mayor believes has possession of property of a responsible relative, including but not limited to, earnings or other income of the responsible relative.

(10) "Mayor" means the Mayor of the District of Columbia or the Mayor's designee.

(11) "Obligor" means any responsible relative or person ordered to pay pursuant to any order or decision listed in section 8.

(12) "Other income" means any income available to an individual whether or not derived from remuneration based on employment.

(13) "Public assistance" means assistance granted under the District's Aid to Families with Dependent Children program pursuant to section 201(4) of the 1982 Public Assistance Act (D.C. Code, sec. 3-202(a)(4)).

(14) "Recipient" means a dependent child and, if applicable, the caretaker for the child.

(15) "Responsible relative" means any person obligated under law for the support of a dependent child.

(16) "Withholding order" means any legal or

equitable order that requires a holder to turn over earnings or other income in a specified amount to a specified payee rather than to an individual to whom the earnings or other income would otherwise be payable.

Sec. 3. The Council of the District of Columbia finds that:

New,
D.C. Code, sec.
30-502
(1987 supp.)

(1) Dependent children shall be maintained, as completely as possible, from the resources of their parents, thereby relieving or avoiding, at least in part, the burden borne by the citizens of the District for public welfare programs.

(2) The existing remedies pertaining to the support of dependent children are to be augmented by the additional remedies mandated or recommended in the Child Support Enforcement Amendments of 1984, approved August 16, 1984 (98 Stat. 1305; 42 U.S.C. 651 et seq.).

(3) Enactment of this legislation will maximize the potential for children to receive timely, regular, and adequate support from their parents, safeguard the basic rights of all parties, and utilize the resources of the District in the most efficient manner.

Sec. 4. Subrogation of District; notice to caretakers.

(a) The District shall be subrogated to the right of the caretaker to prosecute or maintain any support action.

New,
D.C. Code, sec.
30-503
(1987 supp.)

If a Court orders support to be paid by a responsible

relative, the District shall be subrogated to the right of the caretaker to receive past, present, and future payments under an order or decree, and any money judgment entered under an order or decree shall be considered to be in favor of the District.

(b) The Mayor shall inform any individual who is a caretaker on the date this act takes effect of the provisions of this act within 120 days after it takes effect. Any individual who becomes a caretaker after that date shall be informed of the provisions of this act when the individual becomes a caretaker.

Sec. 5. Amendment of order establishing child support.

Any order requiring payment of an amount of child support, regardless of whether the amount of the child support was the subject of a voluntary agreement of the parties, may be modified upon a showing that there has been a substantial and material change in the needs of the child or the ability of the responsible relative to pay since the day on which the order was issued.

New,
D.C. Code, sec.
30-504
(1987 supp.)

Sec. 6. Contents of order.

All Court orders or decrees directing the payment of child or spousal and child support, whether they are original orders or modifications of existing orders, shall contain the following information in addition to the notice required by section 7:

New,
D.C. Code, sec.
30-505
(1987 supp.)

(1) Notice that support payments shall be withheld from earnings or other income as defined in this act when there are arrearages equal to 30 days of support payments; and

(2) Notice that if withholding commences, all payments shall be made through the Court registry and any other payments shall be considered a gift and shall not offset the duty of support ordered by the Court.

Sec. 7. Service.

(a) In any case brought in Court under D.C. Code, sec. 11-1101(1), (3), (10), or (11), involving the establishment of child support or in any case seeking to modify an existing child support order, notice shall be issued to the alleged responsible relative by the clerk of the Family Division of the Court stating that a hearing to determine the matter of child support has been scheduled. This hearing shall be scheduled within 45 days from the date the application is filed by the clerk.

(b) Personal service of the notice may be made by delivering a copy of the notice to the responsible relative, to a person of suitable age and discretion residing at the alleged responsible relative's dwelling house or usual place of abode, to a person of suitable age and discretion at the alleged responsible relative's place of employment, or by mailing the notice to the alleged responsible relative by

New
D.C. Code, sec.
30-506
(1987 supp.)

certified mail, return receipt requested. Delivery may be made by a competent adult with no interest in the proceedings.

(c) The notice shall include the following information:

(1) The name of the person for whom support is being claimed;

(2) A demand that the alleged responsible relative attend a hearing and the date, time, and place of the hearing;

(3) An explanation of the possible consequences of the alleged responsible relative's failure to attend the scheduled hearing;

(4) The demand that the alleged responsible relative bring to the hearing any record in the relative's possession of earnings received in the past 2 years, including receipts for earnings provided by an employer, or any wage and tax statements prepared by an employer setting forth earnings for tax purposes;

(5) Notice that the alleged responsible relative may be represented by counsel at any stage of the proceedings; and

(6) An explanation that a request for a continuance may result in the setting of interim support or the posting of collateral.

(d) The custodian shall be given a notice containing the provisions outlined in subsection (c) of this section.

Sec. 8. Enforcement by withholding.

(a) The Court shall be the instrumentality for withholding earnings and other income under this act.

New,
D.C. Code, sec.
30-507
(1987 supp.)

(b) All Court orders or decrees directing the payment of child or spousal and child support, whether they are original orders or modifications of existing orders, shall contain the following:

(1) Notice that support payments shall be withheld from earnings or other income as defined in this act where arrearages equal 30 days of support payments;

(2) The name, address, and telephone number of the obligor's current employer and a provision that the obligor has a duty to notify the Court within 10 days of any change of this information; and

(3) Notice that a withholding order may be changed upon motion from either party to request a reapportionment of periodic arrears payments to reflect a change in the obligor's ability to pay.

(c) The following orders shall be enforceable by means of withholding earnings or other income:

(1) Any order for child support with an income withholding order under D.C. Code, sec. 16-916; the Act to improve and extend through reciprocal legislation, the

enforcement of duties of support in the District of Columbia, approved July 10, 1977 (71 Stat. 285; D.C. Code, sec. 30-301 et seq.) ("Reciprocal Legislation Enforcement Act"); or section 17(a) of the District of Columbia Public Assistance Act of 1962, approved October 15, 1962 (76 Stat. 917; D.C. Code, sec. 3-213.1) ("1962 Public Assistance Act");

(2) Any order for a wage garnishment or wage assignment for child support in effect on the effective date of this act, to the extent that the order does not exceed the maximum amounts permitted under section 303(b) of the Consumer Credit Protection Act, approved May 29, 1968 (82 Stat. 163; 15 U.S.C. 1673(b)) ("Consumer Credit Protection Act");

(3) Any Court order or final decree of divorce requiring the payment of child support by a parent;

(4) Any separation agreement requiring the payment of child support by a parent;

(5) Any order registered pursuant to the Reciprocal Legislation Enforcement Act (D.C. Code, sec. 30-301 et seq.);

(6) Any support order of another jurisdiction that has been docketed pursuant to section 23 of this act; and

(7) Any order for spousal support when it is part

of a child support obligation that is being enforced under part D of title 4 of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. sec. 651 et seq.), and the spouse or former spouse is living with the child.

Sec. 9. Withholding.

(a) Notwithstanding any other provision of subchapters 2 or 3 of chapter 5 of title 16 of the District of Columbia Code, where a withholding is levied upon earnings or other income, the withholding shall:

New
D.C. Code, sec.
30-508
(1987 supp.)

(1) Not exceed the limitations set forth under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. sec. 1673(b));

(2) Be binding upon each present and future holder upon whom a copy of the notice of withholding is served until the holder is notified of its termination; and

(3) Have priority over any legal process under District law.

(b) The Mayor shall establish a procedure for the prompt return to an obligor of any overpayment pursuant to section 28.

Sec. 10. Notice of intent to withhold.

(a) For any order listed in section 8(c)(1), (2), (3), (4), or (7) where there are arrearages equal to 30 days of support payments, any caretaker, custodian, responsible relative, or the Mayor may apply to the clerk of the Court

New
D.C. Code, sec.
30-509
(1987 supp.)

to issue a notice of intent to withhold and the clerk of the Court shall issue to the obligor, by certified mail, a notice of intent to withhold and shall certify the date the notice is mailed. The Mayor shall apply to the clerk of the Court to issue a notice of intent to withhold in all child support cases being enforced under part D of title 4 of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. 651 et seq.), where there are arrearages equal to 30 days of support payments.

(b) For any order listed in section 8(c)(5) or (6), any caretaker, custodian, responsible relative, or agency may apply to the clerk of the Court to issue a notice of intent to withhold upon compliance with the requirements of section 23. The clerk of the Court shall issue to the obligor by certified mail a notice of intent to withhold and shall certify the date the notice is mailed.

(c) The notice of intent to withhold as required in subsections (a) and (b) of this section shall include the following:

(1) A statement of any arrearage that has accrued, the support obligation that is accruing, and the periodic amount required to be paid in the future;

(2) A statement that the obligor's earnings or other income shall be withheld in the amount specified in the notice;

(3) A statement that the withholding shall apply to any current and subsequent periods of employment;

(4) A statement that, unless the obligor files an objection to contest the withholding within 15 days of the date the notice was mailed to the obligor, the clerk of the Court will notify the holder to commence the withholding;

(5) A statement that the obligor has the right to contest the withholding, a statement of the procedures available for contesting the withholding, and a statement that the only basis for contesting is a mistake of fact as defined in section 11(c);

(6) A statement of the actions that will be taken if the obligor contests the withholding;

(7) A statement that, within 10 days after termination or change of employment or change of the obligor's home address, the obligor shall notify the Court and provide the following information:

(A) The obligor's social security number;

(B) The obligor's home address and telephone number; and

(C) The name, address, and telephone number of the obligor's employer; and

(8) The time period within which the withholding shall begin and the information given to the holder pursuant to section 12.

Sec. 11. Objections to withholding.

New
D.C. Code, sec.
30-510
(1987 supp.)

(a) The clerk shall issue the notice of withholding pursuant to section 12 unless the obligor files an objection to contest the withholding pursuant to this section within 15 days after the notice of intent to withhold is mailed.

(b) The notice to the holder pursuant to section 12 shall be sent within 45 days of the date that the notice of intent to withhold was sent to the obligor pursuant to subsections (a) and (b) of this section. Any objections raised by the obligor shall be resolved within 45 days from the date that the notice of intent to withhold was sent.

(c) The only grounds for objection by an obligor are mistakes of fact which are defined as:

- (1) The amount of arrears;
- (2) The identity of the obligor; and
- (3) Whether the amount to be withheld as a periodic payment exceeds the limits of section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)).

(d) Payment of arrearages after the date of the application to the clerk of the Court for the issuance of a notice of intent to withhold pursuant to subsection (b) of this section is not a defense to the withholding.

(e)(1) Objections filed to contest the withholding shall be filed with the Court.

- (2) The Court shall order withholding in all

cases except where the identity of the obligor is mistaken or where arrearages have never equaled 30 days of support payments, and shall notify the obligor.

(3) The notice of withholding shall include the time period within which the withholding shall begin, and shall contain the information given to the holder pursuant to section 12.

(4) The Court shall not grant any request to stay implementation of withholding pending further objections or appeal.

(5) If the Court determines that the amount to be withheld as a periodic payment exceeds the limits of section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1674(b)), then the Court shall issue a notice of withholding to the holder that complies with those limits.

(f) Notice to an obligor sent pursuant to section 23 shall comply with this section and provisions in section 23(a)(3).

Sec. 12. Notice of withholding to the holder.

(a) After issuance of the notice of intent to withhold, and the determination, against the obligor, of any objections raised by the obligor under section 11, but within 45 days from the date the notice of intent to withhold was issued to the obligor, the clerk of the Court shall issue a notice to the holder.

New,
D.C. Code, sec.
30-511
(1987 supp.)

(b) The notice issued under subsection (a) of this section shall explain the following:

(1) The amount to be withheld for support and other purposes and that the amount to be withheld may not exceed the limits imposed under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b));

(2) That, if the holder is the obligor's employer, the holder must send the withheld amount to the Court at the same time the obligor is paid;

(3) That the holder may deduct and retain an additional \$2.00 for processing costs;

(4) That the withholding is binding on the holder until further notice by the Court;

(5) That the holder or employer may be fined in accordance with section 20(c) for discharging an obligor from employment, refusing to employ an obligor, or taking disciplinary action against any obligor because of the withholding;

(6) That, if the holder fails to withhold earnings or other income as required under this act, the holder will be liable as specified in section 14;

(7) That the withholding has priority as specified in section 9(a)(3);

(8) That the holder may combine withheld amounts from more than 1 obligor in a single payment and separately

identify the portion of the payment that is attributable to each obligor;

(9) That the holder must withhold according to the requirements of section 13; and

(10) That the holder shall give notice to the court of termination of employment of the obligor as required by section 17.

Sec. 13. Holder's duty to withhold and make payments.

(a) A holder required to withhold earnings or other income shall withhold and make payment no later than the first pay period that occurs after 14 days following the date the notice was mailed or no later than the date the applicable income becomes due or otherwise available to the obligor. Thereafter, the holder shall send the required withholding to the Court on the same date the obligor is compensated.

(b) When the holder has received written notice of any legal proceedings challenging the withholding or the judgment or order of support on which it is based, the holder shall continue to withhold the payments from the obligor until receipt of a notice from the Court informing the holder to cease the withholding.

(c) Any payment made by a holder in conformity with this section shall discharge the liability of the holder to the obligor to the extent of the payment.

New,
D.C. Code, sec.
30-512
(1987 supp.)

(d) The holder, upon whom a notice of withholding as provided by section 12 is served, may deduct and retain from the person's earnings or other income an additional \$2.00 for each deduction made in accordance with the notice. Where the total amount to be withheld, together with a fee, exceeds the limitations set forth in section 303(b) of the Consumer Credit Protection Act (15 U.S.C 1673(b)), the amount of withholding shall be reduced by the holder to conform with the limitations, but the amount of the fee shall not be reduced by reason of the limitations.

Sec. 14. Judgment against holder for failure to comply.

New,
D.C. Code, sec.
30-513.
(1987 supp.)

(a) Except as provided in subsection (b) of this section, if a holder fails to withhold earnings or other income in accordance with this act, judgment shall be entered against the holder for any amount not withheld and for any reasonable counsel fees and Court costs incurred by the obligor, caretaker, custodian, or their representative.

(b) Subsection (a) of this section shall not apply where the holder proves, by a preponderance of the evidence, that the failure to withhold was due to exigent circumstances beyond the holder's control.

Sec. 15. Termination of withholding.

(a) Withholding shall terminate:

New,
D.C. Code, sec.
30-514
(1987 supp.)

(1) When the support obligation has been

terminated and the total arrearage has been satisfied;

(2) When the holder, by reason of termination of employment or other reason, no longer holds earnings or other income payable to the obligor;

(3) When the payee has failed to give notice to the Court of a change of address as required by subsection (b) and (c) of this section; or

(4) When the foreign jurisdiction gives notice to the Court that withholding is no longer required.

(b) If the address of a payee changes, the payee, within a reasonable time, shall notify the Court.

(c) If, because of the failure of a payee to give notice under this section, the Court is unable, for a 3-month period, to deliver payments owed pursuant to the withholding order, the Court shall return each undeliverable payment to the obligor and inform the holder to cease the withholding.

Sec. 16. Lapse of order of withholding.

An order of withholding issued by the Court or other appropriate agency upon a judgment or order for support and issued within 12 years from the date of the judgment or order shall not lapse or become invalid before complete satisfaction solely by reason of the expiration of the period of limitation set forth in D.C. Code, sec. 15-101.

New,
D.C. Code, sec.
30-515
(1987 supp.)

Sec. 17. Termination of employment.

New,
D.C. Code, sec.
30-516
(1987 supp.)

(a) Within 10 days after an employer receives notice that the obligor will terminate employment or within 10 days after the termination, whichever occurs earlier, the employer shall notify the Court and provide the obligor's last known address and the name and address of the obligor's new employer, if known.

(b) Within 20 days of receipt of information regarding the obligor's new place of employment, the Court shall notify the obligor's new employer, in accordance with the requirements of section 12, that the withholding is binding on the new employer.

Sec. 18. Limitations and priorities.

(a) When there is more than 1 withholding order against a single obligor under this act, the Court shall prorate the withholdings for current support among the orders up to the limits of section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)).

(b) If current support payments do not exceed the limits of section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)), payments toward arrearages shall be prorated by the Court among the orders.

Sec. 19. Voluntary income withholding.

(a) Any person who is the obligor on a support order of this jurisdiction or another jurisdiction may obtain voluntary income withholding by filing with the Court a

New,
D.C. Code, sec.
30-517
(1987 supp.)

New,
D.C. Code, sec.
30-518
(1987 supp.)

request for withholding and a certified copy of the support order if the order is from another jurisdiction.

(b) Upon receipt of a request under subsection (a) of this section and appropriate documentation, the Court shall issue a notice to the holder pursuant to section 12.

Payment shall be made through the Court.

Sec. 20. No discrimination in employment for withholding.

New,
D.C. Code, sec.
30-519
(1987 supp.)

(a) No employer shall discharge, refuse to employ, take disciplinary action, or otherwise discriminate against any employee or obligor for the reason that a party has subjected or attempted to subject unpaid earnings of the employee or obligor to withholding or like proceedings for the purposes of paying child support.

(b) There shall be a rebuttable presumption that any employer who engages in conduct described in subsection (a) of this section, within 90 days from the date of receipt of the notice to the holder pursuant to section 12, is in violation of this act and may be subject to the sanctions in subsection (c) of this section.

(c) Any employer who engages in conduct described in subsection (a) of this section shall be subject to a civil penalty of up to \$10,000.

(d) Any civil penalty obtained under subsection (c) of this section shall be used to offset the obligor's duty of

child support.

Sec. 21. Payments by employer where employee has no salary or salary inadequate for services rendered.

New,
D.C. Code, sec.
30-520
(1987 supp.)

Where the obligor claims to be rendering services without salary or compensation, or at a salary or compensation so inadequate as to satisfy the Court that the salary or compensation is merely colorable and designed to defraud or impede withholding, the Court may direct the employer to make payments to satisfy the withholding order in installments, based upon a reasonable value of the services rendered by the obligor under this employment or upon the obligor's current earnings ability.

Sec. 22. Quashing withholding where judgment obtained to hinder just claims.

New,
D.C. Code, sec.
30-521
(1987 supp.)

Where a notice of withholding issued under this act is based upon a judgment obtained by default or consent without a trial upon the merits, the Court, upon motion of an interested person, may quash the withholding upon satisfactory proof that the judgment was obtained without just cause and solely for the purpose of preventing or delaying the satisfaction of just claims.

Sec. 23. Interstate withholding; procedure for entering a support order of another jurisdiction for withholding.

New,
D.C. Code, sec.
30-522
(1987 supp.)

(a) Upon receiving a support order of another

jurisdiction from an appropriate agency of the other jurisdiction, with the documentation specified in subsection (c) of this section, the following shall take place:

(1) The clerk of the Family Division of the Court shall accept the documents filed and enter the support order upon the docket and that entry shall constitute acceptance of the support order under this act;

(2) The clerk of the Court shall process withholding under this act; and

(3) In addition to the notice of intent to withhold pursuant to section 11, the notice to the obligor, in a case involving withholding pursuant to this section, shall also include the following:

(A) A statement that, if contested, a support order entered pursuant to this section and the accompanying sworn or certified statement shall constitute prima facie proof, without further proof or foundation, that the support order is valid, that the amount of current support payments and arrearages is as stated, and that the payee would be entitled to withholding under the law of the jurisdiction that issued the support order;

(B) A statement that, once a prima facie case has been established, the obligor may raise, in addition to those rights available under this section, only matters that would be available to him as defenses in an

action to enforce a foreign money judgment; and

(C) A statement that, if the obligor shows to the Court that an appeal from the order is pending, will be taken, or that a stay of execution has been granted, the Court may stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the defendant has furnished security for payment of the support ordered as required by the initiating jurisdiction.

(b) Any stay granted as referred to in subsection (a)(3)(C) of this section shall also stay the time limitations for rendering a decision on withholding pursuant to sections 17(b) and 11(b).

(c) The following documentation is required for the entry of a support order of another jurisdiction:

(1) A certified copy of the support order with all modifications;

(2) A certified copy of any income withholding order or notice still in effect;

(3) A copy of the portion of the income withholding statute of the jurisdiction that issued the support order, which states the requirements for obtaining income withholding under the law of the jurisdiction;

(4) A sworn statement of the obligee or certified statement of the agency of the arrearages, if any; and

(5) A statement of:

(A) The name, address, and social security number of the obligor, if known;

(B) The name and address of the obligor's employer in this jurisdiction or of any other source of earnings or other income of the obligor derived in the District against which income withholding is sought; and

(C) The name and address of the agency or person to whom support payments collected by income withholding shall be transmitted.

(d) If the documentation received by the Court pursuant to subsection (a) of this section does not conform to the requirements of subsection (c) of this section, the Court shall remedy any defect that it can without the assistance of the requesting agency or person. If the Court is unable to make the corrections, the requesting agency or person shall be notified of the necessary additions or corrections. The Court shall accept the documentation required by subsections (a) and (c) of this section even if it is not in the usual form required by state or local rules, so long as the substantive requirements of these subsections are met.

(e) If the earnings or other income of the obligor is not derived in the District, the Court shall notify the initiating jurisdiction that no action will be taken.

(f) Entry of the order shall not confer jurisdiction on the Court for any purpose other than withholding of earnings or other income.

(g) The Court, upon receiving a certified copy of any amendment or modification to a support order entered, shall initiate, as though it was a support order of this jurisdiction, necessary procedures to amend or modify the income withholding order or notice of jurisdiction that was based upon the entered support order.

(h) If the Court determines that the obligor has obtained employment or has a new or additional source of income in another jurisdiction, it shall notify the agency that requested the income withholding of the changes within 20 working days of receiving the information and shall forward to that agency all information it has or can obtain with respect to the obligor's new address and the name and address of the obligor's new employer or other source of income. The court shall include with the notice a certified copy of any income withholding order in effect in this jurisdiction.

Sec. 24. Initiation of withholding in other jurisdictions.

Where an obligor under an order of support as described in section 8 derives income in another jurisdiction, any caretaker, custodian, responsible relative, or the Mayor may

New,
D.C. Code, sec.
30-523
(1987 supp.)

file an application requesting the clerk of the Court to request the appropriate agency in the other jurisdiction to issue a notice or order to withhold that income.

Sec. 25. Enforcement of orders by means other than income withholding.

New,
D.C. Code, sec.
30-524
(1987 supp.)

(a) A lien may be asserted by the Mayor or the custodian to whom support is payable upon the real and personal property of the responsible relative. In addition to withholding of earnings or other income, this lien shall be separate from and in addition to any other lien created by or provided for under law. The District or the custodian to whom support is payable shall have the priority of a secured creditor.

(b) An action to collect subrogated or assigned support by lien and foreclosure, distraint, seizure and sale, or an order to withhold and deliver shall be lawful on the date the order is issued.

Sec. 26. Consumer credit reporting.

Upon request by a consumer reporting agency, as defined in section 603(f) of the Consumer Credit Protection Act (15 U.S.C. 1681a(f)), the Mayor shall make available information regarding an amount of overdue support as defined in section 466(e) of the Social Security Act, approved August 16, 1984 (98 Stat. 1310; 42 U.S.C. 666(e)), if the amount of overdue support is greater than \$1,000. The Mayor shall notify the

New,
D.C. Code, sec.
30-525
(1987 supp.)

obligor of the proposed action and of the obligor's right to contest the accuracy of the information to be released. The Mayor shall provide the obligor with a reasonable opportunity to contest the accuracy of the information.

Sec. 27. Limitation of liability.

Neither the District nor its officers or employees shall be responsible for any injury resulting from the improper enforcement of a lien, except that the District, its officers, and employees shall be liable for damages caused by gross negligence in the enforcement of liens.

New,
D.C. Code, sec.
30-526
(1987 supp.)

Sec. 28. Rulemaking authority.

The Mayor shall issue proposed rules to implement the provisions of this act and attendant federal law within 90 days from the effective date of this act pursuant to the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1203; D.C. Code, sec. 1-1501 et seq.). The proposed rules shall be submitted to the Council of the District of Columbia ("Council") for a 30-day period of review excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the the proposed rules, in whole or in part, by resolution within the 30-day review period, the proposed rules shall be deemed approved.

New,
D.C. Code, sec.
30-527
(1987 supp.)

Sec. 29. Choice of law.

(a) The law and procedures of the jurisdiction in

New,
D.C. Code, sec.
30-528
(1987 supp.)

which the obligor is employed shall apply, except with respect to:

(1) When withholding must be implemented; and

(2) The statute of limitations for maintaining an action on arrearages of support payments.

(b) The Court shall apply the statute of limitations for maintaining an action on arrearages of support payments of either this jurisdiction or the jurisdiction that issued the support order, whichever is longer.

Sec. 30. Rules of Procedure.

The Court shall establish rules of procedure necessary to effectuate the purposes of this act.

New,
D.C. Code, sec
30-529
(1987 supp.)

Sec. 31. Public Information Program.

The Mayor shall ensure that an extensive program of public information detailing the effects of this act is undertaken within 30 calendar days of the effective date of this act.

New,
D.C. Code, sec
30-530
(1987 supp.)

Sec. 32. Enforcement.

This act shall not be enforced until 60 calendar days after the effective date of this act

New,
D.C. Code, sec
30-531
(1987 supp.)

Sec. 33. Miscellaneous amendments.

(a) Title 16 of the D.C. Code is amended as follows:

(1) D.C. Code, section 16-573(b), is amended by striking "." and inserting in its place the phrase "; except that, in the case of child support judgments, the employer

D.C. Code, sec
16-573
(1987 supp.)

shall continue to withhold the payments from the judgment debtor until receipt of an order of the court terminating the withholding."

(2) D.C. Code, section 16-583, is amended to read as follows:

D.C. Code, sec.
16-583
(1987 supp.)

"(a) Except as otherwise provided in the District of Columbia Child Support Enforcement Amendment Act of 1985 or as provided in the D.C. Code, section 16-916, before entry of a judgment in an action against a debtor, the creditor may not obtain an interest in any property of the debtor by attachment, garnishment, or like proceedings.

"(b) The holder who is served an order of withholding under this subchapter may deduct and retain from the obligor's earnings or other income an additional \$2.00 over the withholding amount for expenses incurred as a result of the withholding."

(3) D.C. Code, section 16-909, is amended as follows:

D.C. Code, sec.
16-909
(1987 supp.)

(A) Subsection (a) is amended as follows:

(i) Paragraph (3) is amended by striking "." and inserting "; or" in its place; and

(ii) By adding a new paragraph to read as follows:

"(4) if the putative father has acknowledged paternity in writing."; and

(B) Subsection (b) is amended by striking "-(3)" and inserting "through (4)" in its place.

(4) D.C. Code, section 16-916, is amended as follows:

D.C. Code, sec.
16-916
(1987 supp.)

(A) By amending subsection (c) to read as follows:

"(c) When a father or mother fails to maintain his or her minor child, the Court may decree that the father or mother pay reasonable sums periodically for the support and maintenance of the child, that the parent obtain medical insurance for the child whenever that insurance is available at a reasonable cost, and that the father or mother pay Court costs, including counsel fees, to enable plaintiff to conduct the cases."

(B) By adding the following new subsection (e):

"(e)(1) In order to secure payment of overdue support as defined in section 466(e) of the Social Security Act approved August 16, 1984 (98 Stat. 1310; 42 U.S.C. 666(e)), after providing notice under subsection (b) of this section, the Court shall, where appropriate, require the parent to post security, bond, or give some other guarantee.

"(2) The Court shall provide advance notice to the parent regarding the delinquency of the support payment and the requirement of posting security, bond, or guarantee.

The notice shall inform the parent of the parent's rights and the methods available for contesting the impending action."

(5)(A) The table of contents for Chapter 9 of title 16 is amended by adding the following caption at the end:

TOC D.C. Code
Chapter 9,
title 16
(1987 supp.)

"16-924. Expedited judicial hearing."

New,
D.C. Code, sec.
16-924
(1987 supp.)

(B) A new D.C. Code, section 16-924, is added to read as follows:

"Section 16-924. Expedited judicial hearing.

"(a) In any case brought under D.C. Code, section 11-1101(1), (3), (10), or (11), involving the establishment or enforcement of child support, or in any case seeking to modify an existing child support order, where a hearing commissioner in the Family Division of the Superior Court finds that there is an existing duty of support, the hearing commissioner shall conduct a hearing on support and, within 30 days from the conclusion of the hearing, the hearing commissioner shall issue written findings of fact and conclusions of law that shall include, but not be limited to, the following:

"(1) The name and relationship of the parties;

"(2) The name, ages, and any exceptional information about the child;

"(3) The duty of support owed;

"(4) The amount of monthly support payments;

"(5) The annual earnings of the parents;

"(6) The social security number of the parents;

"(7) The name, address, and telephone number of each parent's employer;

"(8) The name, address, and telephone number of any person, organization, corporation, or government entity that holds real or personal assets of the obligor; and

"(9) A statement that a responsible relative is bound by this order to notify the Court within 10 days of any change in address or employment.

"(b) The alleged responsible relative may be represented by counsel at any stage of the proceedings.

"(c) If in a case under subsection (a) of this section the hearing commissioner finds that the case involves complex issues requiring judicial resolution, the hearing commissioner shall establish a temporary support obligation and refer unresolved issues to a judge, except that the hearing commissioner shall not establish a temporary support order if parentage is at issue.

"(d) In cases under subsections (a) and (c) of this section in which the hearing commissioner finds that there is a duty of support and the individual owing that duty has been served or given notice of the proceedings under any applicable statute or court rule, if that individual fails

to appear or otherwise respond, the hearing commissioner shall enter a default order.

"(e) Subject to subsection (f) of this section, the findings of the hearing commissioner shall constitute a final order of the Superior Court.

"(f) A review of the hearing commissioner's findings in a case under subsections (a) and (c) of this section may be made by a judge of the Family Division sua sponte and shall be made upon the motion of 1 of the parties, which shall be filed within 10 days after the judgement. An appeal to the District of Columbia Court of Appeals may be made only after a hearing is held in the Superior Court."

(6) D.C. Code, section 16-2341(a), is amended to read as follows:

D.C. Code, sec.
16-2341
(1987 supp.)

"(a) Where a public support burden has been incurred or is threatened, or where an individual seeks assistance pursuant to part D in title 4 of the Social Security Act approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. 651 et seq.), the Corporation Counsel or an assistant may bring a civil action in the Family Division to enforce support of any parent or child against an absent parent."

(b) Section 519 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.19), is amended to read as follows:

D.C. Code, sec.
3-205.19
(1987 supp.)

"(a) Application for public assistance shall be accepted from, or on behalf of, any person who believes himself or herself eligible for public assistance. The application shall be made in the manner and form prescribed by the Council, and shall contain such information as the Mayor shall require.

"(b) An applicant for assistance is considered to have assigned to the District, at the time of application, all rights the applicant may have in the applicant's own behalf or in behalf of another family member for whom application is made for child support from another person.

"(c) The assignment referred to in subsection (b) of this section:

"(1) Is effective as to both current and accrued child support obligations;

"(2) Takes effect upon a determination that the applicant is eligible for assistance; and

"(3) Terminates when an applicant ceases to receive assistance except with respect to the amount of any unpaid support obligation accrued under the assignment."

(c) Section 102(1) of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Code, sec. 1-2502(12)), is amended to read as follows: D.C. Code, sec. 1-2502 (1987 supp.)

"Family Responsibilities" means the state of being, or the potential to become, a contributor to the support of a

person or persons in a dependent relationship, irrespective of their number, including the state of being the subject of an order of withholding or similar proceedings for the purpose of paying child support or a debt related to child support."

(d) Section 2 of the Employees' Garnishment Act of 1977, effective July 26, 1977 (D.C. Law 2-14; D.C. Code, sec. 1-516), is amended to read as follows:

D.C. Code, sec.
1-516
(1987 supp.)

"After July 25, 1977, wages, salaries, annuities, retirement and disability benefits, and other remuneration based upon employment, or other income owed by, due from, and payable by the government of the District of Columbia to any individual shall be subject to attachment, garnishment, assignment, or withholding under the District of Columbia Child Support Enforcement Amendment Act of 1985, provided the levy is predicated upon the entry of a judgment, order, or decree determining the individual's legal obligation to provide child support or to make maintenance or alimony payments. Whenever wages, salaries, annuities, retirement and disability benefits, or other remuneration based upon employment is sought to be levied pursuant to this section, the legal process shall be such as is usual in other cases of attachment, garnishment, assignment, or withholdings under the District of Columbia Child Support Enforcement Amendment Act of 1985. The government of the District of

Columbia shall be subject to process in the same manner and to the same extent as if it were a private person, except that no writ or similar process served under the authority of this section shall be honored by the government of the District of Columbia unless a certified copy of the judgment, order, or decree upon which the levy is predicated has been provided to the Mayor of the District of Columbia or his duly authorized designee."

(e) Section 11 of An Act To establish a Board of Public Welfare in and for the District of Columbia, to determine its functions, and for other purposes, approved March 16, 1926 (44 Stat. 210; D.C. Code, sec. 3-114), is amended by adding a new paragraph (c) to read as follows:

D.C. Code, sec.
3-114
(1987 supp.)

"(c) The Mayor may, where appropriate, secure an assignment of rights from a parent whose child is in the custody of a person or agency receiving foster care maintenance payments under part E in title 4 of the Social Security Act, approved June 19, 1980 (94 Stat. 501; 42 U.S.C. 670 et seq.)."

(f) An Act To improve and extend, through reciprocal legislation, the enforcement of duties of support in the District of Columbia, approved July 10, 1957 (71 Stat. 285; D.C. Code, sec. 30-301 et seq.), is amended as follows:

(1) Section 2(e)(1) (D.C. Code, sec. 30-302(5)(A)) is amended by striking the semicolon at the

D.C. Code, sec.
30-302
(1987 supp.)

end and inserting in its place the following: "and the duty to pay arrearages of support past due and unpaid;"

(2) The first sentence in section 8 (D.C. Code, sec. 30-308) is amended to read as follows:

D.C. Code, sec.
30-308
(1987 supp.)

"In any instance in which the Corporation Counsel of the District of Columbia is satisfied that the duties of support sought to be enforced are child or spousal support obligations that are being enforced pursuant to a plan as described in section 454 of the Social Security Act, approved January 21, 1975 (88 Stat. 2351; 42 U.S.C. 654), which has been approved by the Secretary of the Department of Health and Human Services under part D in title 4 of the Social Security Act, approved August 4, 1935 (88 Stat. 2351; 42 U.S.C. 651 et seq.), it shall be the Corporation Counsel's duty to represent the plaintiff in any proceedings arising under this act or a similar reciprocal act.";

(3) Section 13 (D.C. Code, sec. 30-313) is amended by striking the phrase "Corporation Counsel" and inserting the phrase "Director of the Department of Human Services" in its place; and

D.C. Code, sec.
30-313
(1987 supp.)

(4) By adding the following new sections at the end:

"Sec. 24a. Registration of foreign support order.

"(a) A plaintiff seeking to register a foreign support order in the Court shall transmit to the clerk of the Court

New,
D.C. Code, sec.
30-325
(1987 supp.)

the following:

"(1) Three certified copies of the order with all modifications;

"(2) One copy of the reciprocal enforcement of support act of the state in which the order was made; and

"(3) A statement verified and signed by the plaintiff, showing the post office address of the plaintiff, the last known place of residence and post office address of the defendant, the amount of support remaining unpaid, a description and the location of any property of the defendant available upon execution, and a list of the states in which the order is registered. Upon receipt of these documents, the clerk of the Court, without payment of a filing fee or other cost to the plaintiff, shall file them in the Registry of Foreign Support Orders. The filing constitutes registration under this act.

"(b) Promptly upon registration, the clerk of the Court shall send by certified or registered mail to the defendant at the address given, a notice of the registration with a copy of the registered support order and the post office address of the plaintiff. The clerk of the Court shall docket the case. In cases brought pursuant to a plan described in section 654 of the Social Security Act, approved January 4, 1975 (88 Stat. 2354; 42 U.S.C. 654), which has been approved by the Secretary of the Department

of Health and Human Services under part D in title 4 of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. 651 et seq.), the clerk of the Court shall notify the Director of the Department of Human Services that the case has been docketed.

"Sec. 24b. Effect of foreign support order.

"(a) Upon registration, the registered foreign support order shall be treated in the same manner as a support order issued by the Court. It has the same effect and is subject to the procedures, defenses, and proceedings for reopening, vacating, or staying as a support order of the Court and may be enforced and satisfied in like manner.

"(b) The defendant has 20 days after the mailing of notice of the registration to request a stay or other relief. The Court shall notify appropriate counsel. If defendant does not so petition, the registered support order is confirmed.

"(c) At any hearing on the registered support order, the defendant may present only matters that would be available as defenses in an action to enforce a foreign money judgment. If the defendant shows the Court that an appeal from the order is pending or will be taken, or that a stay of execution has been granted, the Court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, but

New,
D.C. Code, sec.
30-326
(1987 supp.)

only upon satisfactory proof that the defendant has furnished the security for paying the support ordered as required by the rendering state. If the defendant shows to the Court any ground upon which enforcement of the order of this Court may be stayed, the Court shall stay enforcement of the order for an appropriate period if the defendant furnishes the same security for payment of the support ordered that is required for a support order of the District."

(g) The District of Columbia Income and Franchise Tax Act of 1947, approved July 16, 1947 (61 Stat. 328; D.C. Code, sec. 47-1801 et seq.), is amended as follows:

(1) Section 11(a) of title 12 (D.C. Code, sec. 47-1812.11(a)) is amended as follows:

D.C. Code, sec.
47-1812.11
(1987 supp.)

(A) Paragraph (4) is amended to read as follows:

"(4) For the purpose of enforcing an order under any state plan approved under part D in title 4 of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. 651 et seq.), the Mayor shall intercept the income tax refund of individuals who owe overdue support, as defined in section 446(e) of the Social Security Act, approved August 16, 1984 (98 Stat. 1310; 42 U.S.C. 666(e)).";

(B) Paragraph (6) is amended by

redesignating it as paragraph (6)(B) and adding a new paragraph (6)(A) to read as follows:

"(A) Prior to interception of any individual's income tax refund, the Mayor shall provide notice to the taxpayer of the referral for tax refund offset, and of the opportunity to contest the referral."

(2) Section 4 of title 5 (D.C. Code, sec. 47-1805.4) is amended by adding the following new paragraph (h) at the end to read as follows:

D.C. Code, sec.
47-1805.4
(1987 supp.)

"(h) Notwithstanding the provisions of this section, the social security account number and the home address of a taxpayer whose tax refund has been intercepted under the Project Setoff Liability Act of 1982, approved September 18, 1982 (D.C. Law 4-154; D.C. Code, secs. 47-1812.11 & 47-1805.4), shall be disclosed upon the request of the state agency requesting the offset and of the District of Columbia agency under part D in title 4 of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. 651 et seq.)."

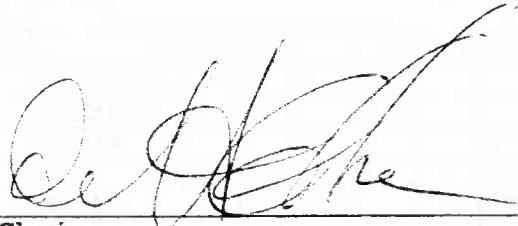
Sec. 34. Effective date.

(a) Except as provided in subsection (b) of this section, this act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in

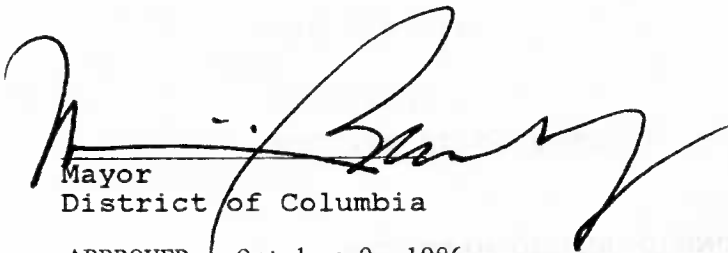
section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)).

(b) Section 33(a)(5)(B), the amendment to D.C. Code, sec. 16-924, which provides for an expedited judicial hearing in cases involving the establishment or enforcement of child support, shall not take effect until the effective date of Congressional legislation providing permanent authority for hearing commissioners in the District of Columbia to hear child support cases, or until the effective date of this act, whichever is later.

Note,
D.C. Code, sec.
16-924
(1987 supp.)



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: October 9, 1986



COUNCIL OF THE DISTRICT OF COLUMBIA
Council Period Six — Second Session

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: B 6-134

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 7-8-86

VOICE VOTE: Unanimous

Recorded vote on request

Absent: all present

ROLL CALL VOTE: — RESULT

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					SPAULDING				
SMITH, JR.					RAY					WILSON				
CRAWFORD					ROLARK					WINTER				
JARVIS					SCHWARTZ									
KANE					SHACKLETON									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Russell Smith
Secretary to the Council

10/2/86
Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 9-23-86

VOICE VOTE: Unanimous

Recorded vote on request

Absent: all present

ROLL CALL VOTE: — RESULT

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					SPAULDING				
SMITH, JR.					RAY					WILSON				
CRAWFORD					ROLARK					WINTER				
JARVIS					SCHWARTZ									
KANE					SHACKLETON									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Russell Smith
Secretary to the Council

10/2/86
Date

Item on Consent Calendar

ACTION & DATE: _____

VOICE VOTE: _____

Recorded vote on request

Absent: _____

ROLL CALL VOTE: — RESULT

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					SPAULDING				
SMITH, JR.					RAY					WILSON				
CRAWFORD					ROLARK					WINTER				
JARVIS					SCHWARTZ									
KANE					SHACKLETON									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date