

O.C.G.A. § 19-6-32

Current through the 2023 Regular Session of the General Assembly.

19-6-32. Entering income deduction order or medical support notice for award of child support; when order or notice effective; hearing on order.

(a) As used in this Code section, the term:

(1) "Child support enforcement agency" means the entity within the Department of Human Services and its contractors that are authorized to enforce a duty of support.

(2) "Court" means judge of any court of record or an administrative law judge of the Office of State Administrative Hearings.

(3) "Earnings" means any form of payment due to an individual, regardless of source, including without limitation wages, salary, commission, bonus, workers' compensation, disability, payments pursuant to a pension or retirement program, and interest.

(4) "IV-D" means Title IV-D of the federal Social Security Act.

(5) "National Medical Support Notice" means a notice as prescribed under 42 U.S.C. Section 666(a)(19) or a substantially similar notice.

(6) "Obligee" means the individual to whom the payment of a support obligation is owed.

(7) "Obligor" means the individual owing a duty of support.

(8) "Payor" means the person that provides earnings to an obligor.

(b)

(1) Except as provided for in paragraph (1) of subsection (c) of this Code section, upon the entry of a judgment or order establishing, enforcing, or modifying a child support obligation or spousal support obligation through a court, a separate income deduction order, if one has not been previously entered, shall be entered. If the obligee is an applicant for child support services under IV-D, the obligee shall furnish copies of the support order and the income deduction order to the child support enforcement agency.

(2) For all child support orders, and spousal support orders enforced pursuant to subsection (d) of Code Section 19-11-6, the child support enforcement agency shall be authorized to issue an income deduction order without need for any amendment to the order involved or any further action by a court that issued it, provided that an opportunity for a hearing before a court is afforded. The child support enforcement agency shall also be authorized to issue a National Medical Support Notice to enforce the medical support provisions of such orders, provided that an opportunity for a hearing pursuant to Code Section 19-11-27 is afforded. Such orders or notices may be issued electronically by the child support enforcement agency. The child support enforcement agency shall issue an income deduction order or, when appropriate, a National Medical Support Notice within two business days after the information regarding a newly hired employee is entered into the centralized employee registry pursuant to Code Section 19-11-9.2 and matched with an obligor in a case being enforced by the child support enforcement agency.

(c)

(1)

(A) All child support orders which are initially issued in this state on or after January 1, 1994, and are not at the time of issuance being enforced by the child support enforcement agency shall provide for the immediate withholding of such support from the earnings of the individual required by that order to furnish support unless:

(i) A court issuing the order finds there is good cause not to require such immediate withholding; or

(ii) A written agreement is reached between both parties which provides for an alternative arrangement.

(B) For purposes of this subsection, any finding that there is good cause not to require withholding from earnings shall be based on at least a written determination that implementing such withholding would not be in the best interest of the child and proof of timely payment of previously ordered support in cases involving modification of support orders.

(2) All child support orders which are not described in subsection (b) of this Code section or in paragraph (1) of this subsection shall, upon petition of either party to revise such order under Code Section 19-6-19 or to enforce such order under Code Section 19-6-28, be revised to include provisions for withholding such support from the earnings of the individual required by the order to furnish such support if arrearages equal to one month's support accrue but without the necessity of filing application for services under Code Section 19-11-6.

(3) Copies of income deduction orders issued under this subsection shall be provided by the obligee to the obligor, payor, and the family support registry established pursuant to Code Section 19-6-33.1.

(d) An income deduction order shall:

(1) Direct a payor to deduct from all earnings due and payable to an obligor the amount required by the support order to meet the obligor's support obligation;

(2) State the amount of arrearage accrued, if any, under the support order and direct a payor to withhold an additional amount until the arrearage is paid in full;

(3) Direct a payor not to deduct in excess of the amounts allowed under Section 303(b) of the federal Consumer Credit Protection Act, 15 U.S.C. Section 1673(b); and

(4) Direct the payor to send income deduction order payments, including administrative fees authorized by law, to the family support registry established pursuant to Code Section 19-6-33.1.

(e) Income deduction orders shall be effective immediately unless a court upon good cause shown finds that the income deduction order shall be effective upon a delinquency in an amount equal to one month's support or a written agreement is reached between both parties which provides for an alternative arrangement.

(f) An income deduction order shall be effective so long as the order of support upon which it is based is effective or until further order of a court.

(g) When an income deduction order shall be effective immediately, the obligee or child support enforcement agency, as applicable, shall furnish to the obligor a statement of his or her rights, remedies, and duties in regard to the income deduction order. The statement shall state:

(1) All fees or interest which shall be imposed;

(2) The total amount of earnings to be deducted for each pay period until the arrearage, if any, is paid in full and the total amount of earnings to be deducted for each pay period thereafter. The amounts deducted shall not be in excess of that allowed under Section 303(b) of the federal Consumer Credit Protection Act, 15 U.S.C. Section 1673(b);

(3) When the withholding will commence;

(4) That the income deduction order shall apply to current and subsequent payors and periods of employment;

(5) That a copy of the income deduction order shall be provided to the payors;

(6) That the enforcement of the income deduction order may only be contested on the ground of mistake of fact regarding the amount of support owed pursuant to a support order, the arrearages, or the identity of the obligor;

(7) How to contest the withholding; and

(8) That the obligor is required to notify the obligee and, when the obligee is receiving IV-D services, the child support enforcement agency, within seven days of changes in the obligor's address and payors and the addresses of his or her payors.

(h) When an income deduction order is effective upon a delinquency in an amount equal to one month's support, or when an order for spousal or child support was in effect prior to July 1, 1989, the obligee or child support enforcement agency, as applicable, may enforce the income deduction order by providing a notice of delinquency to the obligor. A notice of delinquency shall state:

(1) The terms of the support order;

(2) The period of delinquency and the total amount of the delinquency as of the date the notice is mailed;

(3) All fees or interest which may be imposed;

(4) The total amount of earnings to be deducted for each pay period until the arrearage and all applicable fees and interest are paid in full and the total amount of earnings to be deducted for each pay period thereafter. The amounts deducted shall not be in excess of that allowed under Section 303(b) of the federal Consumer Credit Protection Act, 15 U.S.C. Section 1673(b);

(5) That a copy of the notice of delinquency shall be provided to the payors, together with a copy of the income deduction order. The obligor may apply to a court to contest enforcement of the order once the notice of delinquency has been received. The application shall not affect the enforcement of the income deduction order until a court enters an order granting relief to the obligor;

(6) That the enforcement of the income deduction order may only be contested on the ground of mistake of fact regarding the amount of support owed pursuant to a support order, the arrearages, or the identity of the obligor; and

(7) That the obligor is required to notify the obligee of the obligor's current address and current payors and the address of current payors. All changes shall be reported by the obligor within seven days of the change occurring. If the child support enforcement agency is enforcing such order, the obligor shall make these notifications to the child support enforcement agency instead of to the obligee.

(i) The failure of the obligor to receive the notice of delinquency provided for in subsection (h) of this Code section shall not preclude the income deduction order being subsequently provided to the payor. A notice of delinquency which fails to state an arrearage shall not mean that an arrearage is not owed.

(j) At any time, any party, including the child support enforcement agency, may apply to a court to:

(1) Modify, suspend, or terminate the income deduction order because of a modification, suspension, or termination of the underlying order for support; or

(2) Modify the amount of earnings being withheld when the arrearage has been paid.

History

Code 1981, § 19-6-32, enacted by Ga. L. 1989, p. 861, § 3; Ga. L. 1991, p. 94, § 19; Ga. L. 1991, p. 950, § 1; Ga. L. 1993, p. 585, § 1; Ga. L. 1997, p. 1613, § 11; Ga. L. 1999, p. 1237, § 1; Ga. L. 2002, p. 1247, § 2; Ga. L. 2017, p. 646, § 1-13/SB 137.