

# HOUSE BILL ANALYSIS

## HB 1635

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**Title:** An act relating to collection of spousal maintenance.

**Brief Description:** Requiring immediate income withholding to enforce a spousal maintenance order under specified conditions.

**Sponsors:** Representatives Costa, Lantz, Ogden and Blalock.

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Staff:** Trudes Hutcheson (786-7384).

**Background:** Several statutes govern what parties must do when filing for dissolution of marriage or legal separation. In a proceeding for dissolution or legal separation, the court may grant an order requiring spousal maintenance for either spouse. The court must consider relevant factors, such as, the financial resources of the parties, the time necessary to acquire sufficient education or training to enable one spouse to find employment, and the standard of living established during the marriage. In actions where there are no dependent children, the court generally orders that spousal maintenance payments be paid directly to the entitled spouse, the clerk of the court as trustee, or an agency entitled to receive the payment.

To enforce the order for spousal maintenance, an obligee may petition for a mandatory wage assignment to enforce the order if: (a) the order allows for immediate income withholding; or (b) the obligor is more than 15 days past due in payments in an amount equal to or greater than one month's payment. An obligee may also initiate a contempt action against the obligor if the obligor has failed to comply with the order.

The total amount that may be withheld from the obligor's earnings cannot exceed 50 percent of the obligor's disposable earnings each month or each disbursement. In a hearing to quash, modify, or terminate the income withholding order, the court may grant relief only upon a showing that the income withholding order causes extreme hardship or substantial injustice.

Because of certain requirements under federal law, child support orders generally contain a notice that a payroll deduction may be issued, or other income withholding action may be taken, without further notice to the obligor at any time after entry of the court order unless: (a) the obligor demonstrates, and the court finds, that there is good cause not to require immediate income withholding, and that withholding should

be delayed until a payment is past due; or (b) the parties agree in writing to an alternative arrangement and it is approved by the court. Good cause not to require immediate income withholding– means a written determination of why implementing immediate income withholding would not be in the child’s best interests and, in modification cases, proof of timely payment of previously ordered support.

**Summary of Bill:** When a court orders spousal maintenance, the court must order immediate income withholding to enforce the order unless: (a) the party demonstrates, and the court finds, that good cause exists not to require immediate income withholding, and that withholding should be delayed until a spousal maintenance payment is past due; or (b) the parties agree in writing to an alternative arrangement, and it is approved by the court.

Good cause not to require immediate income withholding– means a written determination of why immediate income withholding would not be in the obligee’s best interests, and in modification cases, proof of timely payments of prior spousal maintenance payments.

When the court orders immediate income withholding, the court must issue the necessary order when the court signs the maintenance order or modification of the maintenance order. The obligee is responsible for serving the order on the obligor’s employer and enforcing the order.

If the court does not order immediate income withholding, the court must require that income withholding will be delayed until a payment is past due. The order must contain a notice that an income withholding action may be taken without further notice to the obligor after a payment is past due. The court may order the obligor to make direct payments to the obligee or make payments according to the parties’ alternative arrangement.

A spousal maintenance order may be enforced through immediate income withholding only when the order is one solely for spousal maintenance and does not contain an order for child support or other support. Immediate income withholding for spousal maintenance will be applied to decrees and modification orders entered on or after the effective date of the act.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.