

Notice of Rulemaking

Tennessee Department of Human Services

Child Support Division

There will be hearings before the Tennessee Department of Human Services to consider the promulgation of amendments to the Department's rules pursuant to T.C.A. §§ 4-5-201 et seq. and 36-5-501. The hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-204, and will take place in the following locations: Knoxville State Office Building, 7th Floor Conference Room A, 531 Henley Street, Knoxville, Tennessee, at 6:30 PM Eastern Time on Monday, May 16, 2005; Citizens Plaza State Office Building, Second Floor Boardroom, 400 Deaderick Street, Nashville, Tennessee, at 6:30 PM Central Time on Tuesday, May 17, 2005; Donnelley J. Hill State Office Building, Second Floor Auditorium, 170 North Main Street, Memphis, Tennessee, at 6:30 PM Central Time on Wednesday, May 18, 2005.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Department of Human Services to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled hearing or meeting dates, to allow time for the Department of Human Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Human Services ADA Coordinator, Fran McKinney, at 400 Deaderick Street, Nashville, Tennessee, (615) 313-5563 (TTY)- (800) 270-1349.

For a copy of this notice of rulemaking hearing, contact: Kim Beals, Assistant General Counsel, Citizen's Plaza Building, 400 Deaderick Street, Nashville, Tennessee, 37248-0006 and (615) 313-4731.

Substance of Proposed Rules
of
The Tennessee Department of Human Services
Child Support Division

Chapter 1240-2-2
Forms for Withholding of Income for Child Support

Repeal

Rule 1240-2-2-.05, Attachment to Order to Withhold for Tennessee Employers/Payers of Income, is repealed.

Authority: T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100.

Amendments

Rule 1240-2-2-.01, Purpose and Scope of Rules, is amended by deleting paragraph (2) in its entirety and by substituting instead the following language so that, as amended, paragraph (2) shall read as follows:

- 2) These forms may be generated by computer by the Tennessee Child Support Enforcement System (TCSES), as well as individually by the Department, its contractors or by the Clerks of Tennessee courts by word processing or other suitable means, and minor changes in formatting of the information shall not affect the validity of these forms for the purposes intended. Provided, however, that the form entitled Order/Notice to Withhold Income for Child Support is a form required by the United States Department of Health and Human Services and shall remain substantially as it is drafted.

Authority: T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

Rule 1240-2-2-.04, Order/Notice to Withhold Income for Child Support (Order for Income Assignment), is amended by deleting subparagraphs (b), (c) and (d) of paragraph (1) in their entireties and by substituting instead the following:

- (b) It shall be used by the Clerk of the Court and by the Department of Human Services or its contractor for the purpose of directing an employer or other payer of income who or which has income payable to an obligor of support to withhold income from that obligor to comply with an initial order of the court.
- (c) It shall be used by the Department or its contractors to indicate to the employer/payer of income that the Order/Notice to Withhold Income for Child Support (Order for Income Assignment) has been modified so that the newly ordered amounts will be substituted in place of the previously ordered amounts or to recover any fees or costs as allowed by law;
- (d) It shall be used by the court clerk or the Department to denote the termination of an income assignment as indicated on the form;
- (e) It shall be used only by the Department to notify the obligor of enrollment, pursuant to T.C.A. §36-5-101(f), of the obligor's children, in employer-provided family health care coverage following a change of employers by the obligor; and
- (f) It shall be used to notify the entity withholding the income of the obligor of any other changes to the processing of the payments withheld including, but not limited to, a change in payment location, frequency of payment, or other processing data.

Authority: T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

Rule 1240-2-2-.04, Order/Notice to Withhold Income for Child Support (Order for Income Assignment), is amended by deleting paragraph (7) in its entirety and by substituting instead the following language so that, as amended, paragraph (7) shall read as follows:

(7) Form:

- 1a ORDER/NOTICE TO WITHHOLD INCOME FOR CHILD SUPPORT
- NOTICE OF AN ORDER TO WITHHOLD INCOME FOR CHILD SUPPORT

Original Amended Termination #1b Date: _____ #1c
 State/Tribe/Territory _____ #1d
 City/Co./Dist./Reservation _____ #1e
 Non-governmental entity or Individual _____ #1f
 Case Number _____ #1g

Employer's/Withholder's Name _____ RE: _____ #3a
 _____ #2b Employee's/Obligor's Name (Last, First, MI)
 Employer's/Withholder's Address _____ #3b
 _____ #2c Employee's/Obligor's Social Security Number
 _____ #3c
 _____ #2d Employee's/Obligor's Case Identifier
 _____ #3d
 Employer's/Withholder's Federal EIN Number (if known) _____ Obligee's Name (Last, First, MI)

ORDER INFORMATION: This document is based on the support or withholding order from _____ #4

You are required by law to deduct these amounts from the employee's/obligor's income until further notice.

\$ _____ # 5a Per _____ # 5b current child support _____ #13
 \$ _____ # 6a Per _____ # 6b past-due child support - Arrears greater than 12 weeks? yes no
 \$ _____ # 7a Per _____ # 7b current cash medical support
 \$ _____ # 8a Per _____ # 8b past-due cash medical support
 \$ _____ # 9a Per _____ # 9b spousal support
 \$ _____ #10a Per _____ #10b past-due spousal support
 \$ _____ #11a Per _____ #11b other (specify) _____ #11c

for a total of \$ _____ #12a per _____ #12b to be forwarded to the payee below.

You do not have to vary your pay cycle to be in compliance with the support order. If your pay cycle does not match the ordered payment cycle, withhold one of the following amounts:

\$ # 14a per weekly pay period. \$ # 14c per semimonthly pay period (twice a month).
 \$ # 14b per biweekly pay period (every two weeks). \$ # 14d per monthly pay period.

REMITTANCE INFORMATION: When remitting payment, provide the pay date/date of withholding and the case identifier. If the employee's/obligor's principal place of employment is _____ #15, begin withholding no later than the first pay period occurring #16 days after the date of _____ #17. Send payment within #18 working days of the pay date/date of withholding. The total withheld amount, including your fee, may not exceed #19 % of the employee's/obligor's aggregate disposable weekly earnings.

If the employee's/obligor's principal place of employment is not _____ #20, for limitations on withholding, applicable time requirements, and any allowable employer fees, follow the laws and procedures of the employee's/obligor's principal place of employment (see #3 and #9, ADDITIONAL INFORMATION TO EMPLOYERS AND OTHER WITHHOLDERS).

Make check payable to: _____ #21(Payee and Case identifier) Send check to: _____ #22
 If remitting payment by EFT/EDI, call _____ #23a before first submission. Use this FIPS code: #23b :
 Bank routing number: _____ #23c Bank account number: _____ #23d

If this is an Order/Notice to Withhold: If this is a Notice of an Order to Withhold:
 24a Print Name _____ 25a Print Name _____
 24b Title of Issuing Official _____ 25b Title (if appropriate) _____
 24c Signature and Date (if required by state or tribal law) _____ 25c Signature and Date _____
 24d IV-D Agency Court 25d Attorney Individual Private Entity
 24e Attorney with authority under state law to issue order/notice.

NOTE: Non-IV-D Attorneys, individuals, and non-governmental entities must submit a Notice of an Order to Withhold and include a copy of the income withholding order unless, under a state's law, an attorney in that state may issue an income withholding order. In that case, the attorney may submit an Order/Notice to Withhold and include a copy of the state law authorizing the attorney to issue an income withholding order/notice.

IMPORTANT: The person completing this form is advised that the information on this form may be shared with the obligor.

OMB 0970-0154

ADDITIONAL INFORMATION TO EMPLOYERS AND OTHER WITHHOLDERS

#26 If checked, you are required to provide a copy of this form to your employee/obligor. If your employee works in a state that is different from the state that issued this order, a copy must be provided to your employee/obligor even if the box is not checked.

1. Priority: Withholding under this Order or Notice has priority over any other legal process under state law (or tribal law, if applicable) against the same income. If there are federal tax levies in effect, please notify the contact person listed below. (See 10 below.)

2. Combining Payments: You may combine withheld amounts from more than one employee's/obligor's income in a single payment to each agency/party requesting withholding. You must, however, separately identify the portion of the single payment that is attributable to each employee/obligor.

3. Reporting the Paydate/Date of Withholding: You must report the paydate/date of withholding when sending the payment. The paydate/date of withholding is the date on which the amount was withheld from the employee's wages. You must comply with the law of the state of employee's/obligor's principal place of employment with respect to the time periods within which you must implement the withholding and forward the support payments.

4. Employee/Obligor with Multiple Support Withholdings: If there is more than one Order or Notice against this employee/obligor and you are unable to honor all support Orders or Notices due to federal, state, or tribal withholding limits, you must follow the state or tribal law/procedure of the employee's/obligor's principal place of employment. You must honor all Orders or Notices to the greatest extent possible. (See 9 below.)

5. Termination Notification: You must promptly notify the Child Support Enforcement (IV-D) Agency and/or the contact person listed below when the employee/obligor no longer works for you. Please provide the information requested and return a complete copy of this Order or Notice to the Child Support Enforcement (IV-D) Agency and/or the contact person listed below. (See 10 below.)

THE EMPLOYEE/OBLIGOR NO LONGER WORKS FOR: _____
EMPLOYEE'S/OBLIGOR'S NAME: _____ CASE IDENTIFIER: _____
DATE OF SEPARATION FROM EMPLOYMENT: _____
LAST KNOWN HOME ADDRESS: _____
NEW EMPLOYER/ADDRESS: _____

6. Lump Sum Payments: You may be required to report and withhold from lump sum payments such as bonuses, commissions, or severance pay. If you have any questions about lump sum payments, contact the Child Support Enforcement (IV-D) Agency.

7. Liability: If you have any doubts about the validity of the Order or Notice, contact the agency or person listed below under 10. If you fail to withhold income as the Order or Notice directs, you are liable for both the accumulated amount you should have withheld from the employee's/obligor's income and any other penalties set by state or tribal law/procedure.

#27 _____

8. Anti-discrimination: You are subject to a fine determined under state or tribal law for discharging an employee/obligor from employment, refusing to employ, or taking disciplinary action against any employee/obligor because of a child support withholding.

#28 _____

9. Withholding Limits: For state orders, you may not withhold more than the lesser of: 1) the amounts allowed by the Federal Consumer Credit Protection Act (15 U.S.C. § 1673(b)); or 2) the amounts allowed by the state of the employee's/obligor's principal place of employment. The federal limit applies to the aggregate disposable weekly earnings (ADWE). ADWE is the net income left after making mandatory deductions such as: state, federal, local taxes, Social Security taxes, statutory pension contributions, and Medicare taxes. The Federal CCPA limit is 50% of the ADWE for child support and alimony, which is increased by 1) 10% if the employee does not support a second family, and/or 2) 5% if arrears greater than 12 weeks.

For tribal orders, you may not withhold more than the amounts allowed under the law of the issuing tribe. For tribal employers who receive a state order, you may not withhold more than the amounts allowed under the law of the state that issued the order.

Child(ren)'s Names and Additional Information: #29 _____

Tennessee Employers/Payers of Income should refer to the Department's Rule 1240-2-2-.05, available on the Internet at <http://www.state.tn.us/sos/rules/1240/1240-02/1240-02-02.pdf>, for state specific information about the priority and proration of payments if multiple Orders/Notices are received for one employee.

10. If you or your employee/obligor have any questions, contact #30a by telephone at #30b by Fax at #30c or by internet at #30d.

Instructions to complete the Order/Notice to Withhold Income for Child Support
or Notice of an Order to Withhold Income for Child Support

The Order/Notice to Withhold Income for Child Support (Order/Notice) or Notice of an Order to Withhold Income for Child Support (Notice) is a standardized form used for income withholding in tribal, intrastate, interstate, and intergovernmental cases. Please note that information provided on this form may be shared with the obligor. When completing the form, please include the following information.

The following information 1a – 1g refers to the government agency, non-government entity, or individual completing and sending this form to the employer.

1a. Check whether this is an Order/Notice to Withhold Income for Child Support or a Notice of an Order to Withhold Income for Child Support. Attorneys, individuals, and non-governmental entities must submit a Notice of an Order to Withhold and include a copy of the income withholding order unless, under a state's law, an attorney in that state may issue an income withholding order/notice. In that case, the attorney may submit an Order/Notice to Withhold and include a copy of the state law authorizing the attorney to issue an income withholding order/notice.

1b. Check the appropriate status of the Order or Notice.

1c. Date this form is completed and/or signed.

1d. Name of the state, tribe or territory sending this form. This must be a governmental entity.

1e. Name of the county, city, district, or reservation sending this Order or Notice, if appropriate. This must be a governmental entity.

1f. Check and indicate the non-governmental entity or individual sending this Order or Notice. Complete this item only if a non-governmental entity or individual is submitting this Order or Notice.

1g. Identifying case number used by the entity or individual sending this Order or Notice. In a IV-D case, this must be the IV-D case number.

The following information in 2 and 3 refers to the obligor, obligor's employer, and case identification.

2a. Employer's/Withholder's name.

2b-c. Employer's/Withholder's mailing address, city, and state. (This may differ from the Employee's/Obligor's work site.)

2d. Employer's/Withholder's nine-digit federal employer identification number (if available). Include three-digit location code.

3a. Employee's/Obligor's last name, first name, and middle initial.

3b. Employee's/Obligor's Social Security Number (if known).

3c. The case identifier used by the order issuing state or tribe for recording payments. (Should be the same as #21.) In a IV-D case, this must be the IV-D case number.

3d. Custodial Parent's last name, first name, and middle initial (if known).

ORDER INFORMATION - The following information in 4 -14e refers to the dollar amounts taken directly from the child support order.

4. Name of the state or tribe that issued the support order.

5a-b. Dollar amount to be withheld for payment of current child support, time period that corresponds to the amount in #6a (such as month, week, etc.).

6a-b. Dollar amount to be withheld for payment of past-due child support, time period that corresponds to the amount in #6a (such as month, week, etc.).

7a-b. Dollar amount to be withheld for payment of current cash medical support, as appropriate, based on the underlying order, time period that corresponds to the amount in #7a (such as month, week, etc.).

8a-b. Dollar amount to be withheld for payment of past-due cash medical support, if appropriate, based on the underlying order and the time period that corresponds to the amount in #8a (such as month, week, etc.).

9a-b. Dollar amount to be withheld for payment of spousal support (alimony), if appropriate, based on the underlying order, time period that corresponds to the amount in #9a (such as month, week, etc.).

10a-b. Dollar amount to be withheld for payment of past-due spousal support (alimony), if appropriate, based on the underlying order, time period that corresponds to the amount in #10a (such as month, week, etc.).

11a-c. Dollar amount to be withheld for payment of miscellaneous obligations, if appropriate, based on the underlying order, time period that corresponds to the amount in #11a (e.g., month, week, etc.), and description of the miscellaneous obligation.

12a. Total of #5a, #6a, #7a, #8a, #9a, #10a, and # 11a.

12b. Time period that corresponds to the amount in #12a (e.g., month).

13. Check this box if arrears greater than 12 weeks.

14a. Amount an employer should withhold if the employee is paid weekly.

14b. Amount an employer should withhold if the employee is paid every two weeks.

14c. Amount an employer should withhold if the employee is paid twice a month.

14d. Amount an employer should withhold if the employee is paid once a month.

REMITTANCE INFORMATION

15. The state, tribe, or territory from which this Order/Notice or Notice of an Order is sent.

16. Number of days in which the withholding must begin pursuant to the issuing state's or tribe's laws/procedures.

17. The effective date of the income withholding.

18. Number of working days within which an employer or other withholder of income must remit amounts withheld pursuant to the issuing state's law.

19. The percentage of income that may be withheld from the employee's/obligor's income. For state orders, you may not withhold more than the lesser of: 1) the amounts allowed by the Federal Consumer Credit Protection Act (15 U.S.C. § 1673(b)); or 2) the amounts allowed by the state of the employee's/obligor's principal place of employment. The federal limit applies to the aggregate disposable weekly earnings (ADWE). ADWE is the net income left after making mandatory deductions such as: state, federal, local taxes, Social Security taxes, statutory pension contributions, and Medicare taxes.

For tribal orders, you may not withhold more than the amounts allowed under the law of the issuing tribe. For tribal employers who receive a state order, you may not withhold more than the amounts allowed under the law of the state that issued the order.

20. The state, tribe, or territory from which the Order or Notice is sent.

21. Name of the State Disbursement Unit, individual, tribunal/court, or tribal child support enforcement agency specified in the underlying income withholding order to which payments are required to be sent. This form may not indicate a location other than that specified by an entity authorized under state or tribal law to issue an income withholding order. Please include the case identifier used to record payment (should be the same as 3c). In a IV-D case, this must be the IV-D case number.

22. Address of the State Disbursement Unit, tribunal/court, tribal child support enforcement agency, or individual identified in #21. This information is shared with the obligor. Be sure to safeguard confidential addresses.

Complete only for EFT/EDI transmission.

23a. Telephone number of contact to provide EFT/EDI instructions.

23b. Federal Information Process Standard (FIPS) code for transmitting payments through EFT/EDI. The FIPS code is five characters that identify the state, county or tribe. It is seven characters when it identifies the state, county, and a location within the county. It is necessary for centralized collections.

23c. Receiving agency's bank routing number.

23d. Receiving agency's bank account number.

IV-D agencies, courts, and attorneys (with authority to issue an income withholding order/notice) sending an Order/Notice to Withhold Income for Child Support must complete 24a-e.

24a. Print name of the government official authorizing this Order or Notice to Withhold.

24b. Print title of the government official authorizing this Order or Notice to Withhold.

24c. Signature of Government Official authorizing this Order/Notice to Withhold and date of signature. This line may be optional only if the Withholding Order/Notice includes the name and title of a government official (line 24a, 24b) and a signature of the official (line 24c) is not required by state or tribal law. Provide a signature if required by state or tribal law.

24d. Check the appropriate box to indicate whether a child support enforcement agency (IV-D) or court is authorizing this Order or Notice for withholding.

24e. Check the box if you are an attorney with authority to issue an order or notice under state law.

Attorneys, individuals, and private entities sending a Notice of an Order to Withhold Income for Child Support complete 25a-d.

25a. Print name of the individual or entity sending this Notice.

25b. Print title of the individual sending this Notice, if appropriate

25c. Signature of the individual sending this Notice and date of signature.

25d. Please check the appropriate box to indicate whether you are an attorney, individual, or private entity sending this Notice of an Order.

The following information refers to federal, state, or tribal laws that apply to issuing an income withholding order/notice or notice of an order to the employer. Any state or tribal specific information may be included in space provided.

26. Check the box if the state or tribal law requires the employer to provide a copy of the Order or Notice to the employee.

27. Use this space to provide additional information on the penalty and/or citation for an employer who fails to comply with the Order or Notice. The law of the obligor's principal place of employment governs the penalty.

28. Use this space to provide additional information on the penalty and/or citation for an employer, who discharges, refuses to employ, or disciplines an employee/obligor as a result of the Order or Notice. The law of the obligor's principal place of employment governs the penalty.

29. Use this space to provide the child (ren)'s names listed in the support order and/or additional information regarding this income withholding Order or Notice of an Order.

Please provide the following contact information to the employer. Employers may need additional information to process the Order or Notice.

30a. Name of the contact person sending the Order or Notice of an Order that an employer and/or employee/obligor may call for information regarding the Order or Notice of an Order.

30b. Telephone number for the contact person whose name appears in #30a.

30c. Fax number for the person whose name appears in #30a.

30d. Internet address for the person whose name appears in #30a.

If the employer is a Federal Government agency, the following instructions apply.

■ Serve the Order or Notice of an Order upon the governmental agent listed in 5 CFR part 581, appendix A.

■ Sufficient identifying information must be provided in order for the obligor to be identified. It is, therefore, recommended that the following information, if known and if applicable, be provided:

■ full name of the obligor; (2) date of birth; (3) employment number, Department of Veterans Affairs claim number, or civil service retirement claim number; (4) component of the government entity for which the obligor works, and the official duty station or worksite; and (5) status of the obligor, e.g., employee, former employee, or annuitant.

■ You may withhold from a variety of incomes and forms of payment, including voluntary separation incentive payments (buy-out payments), incentive pay, and cash awards. For a more complete list see 5 CFR 581.103.

The Paperwork Reduction Act of 1995

This information collection is conducted in accordance with 45 CFR 303.100 of the child support enforcement program. Standard forms are designed to provide uniformity and standardization for interstate case processing. Public reporting burden for this collection of information is estimated to average one hour per response. The responses to this collection are mandatory in accordance with 45 CFR 303.7. This information is subject to State and Federal confidentiality requirements; however, the information will be filed with the tribunal and/or agency in the responding State and may, depending on State law, be disclosed

to other parties. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

Rule 1240-2-2-.04, Order/Notice to Withhold Income for Child Support (Order for Income Assignment), is amended by deleting paragraph (8) in its entirety and by substituting instead the following language so that, as amended, paragraph (8) shall read as follows:

- (8) The following blank form is provided for the user's convenience:

ADDITIONAL INFORMATION TO EMPLOYERS AND OTHER WITHHOLDERS

If checked, you are required to provide a copy of this form to your employee/obligor. If your employee works in a state that is different from the state that issued this order, a copy must be provided to your employee/obligor even if the box is not checked.

1. **Priority:** Withholding under this Order or Notice has priority over any other legal process under state law (or tribal law, if applicable) against the same income. If there are federal tax levies in effect, please notify the contact person listed below. (See 10 below.)
2. **Combining Payments:** You may combine withheld amounts from more than one employee's/obligor's income in a single payment to each agency/party requesting withholding. You must, however, separately identify the portion of the single payment that is attributable to each employee/obligor.
3. **Reporting the Paydate/Date of Withholding:** You must report the paydate/date of withholding when sending the payment. The paydate/date of withholding is the date on which the amount was withheld from the employee's wages. You must comply with the law of the state of the employee's/obligor's principal place of employment with respect to the time periods within which you must implement the withholding and forward the support payments.
4. **Employee/Obligor with Multiple Support Withholdings:** If there is more than one Order or Notice against this employee/obligor and you are unable to honor all support Orders or Notices due to federal, state, or tribal withholding limits, you must follow the state or tribal law/procedure of the employee's/obligor's principal place of employment. You must honor all Orders or Notices to the greatest extent possible. (see 9 below.)
5. **Termination Notification:** You must promptly notify the Child Support Enforcement (IV-D) Agency and/or the contact person listed below when the employee/obligor no longer works for you. Please provide the information requested and return a complete copy of this Order or Notice to the Child Support Enforcement (IV-D) Agency and/or the contact person listed below. (See 10 below.)

THE EMPLOYEE/OBLIGOR NO LONGER WORKS FOR:
 EMPLOYEE'S/OBLIGOR'S NAME: _____ CASE IDENTIFIER: _____
 DATE OF SEPARATION FROM EMPLOYMENT: _____
 LAST KNOWN HOME ADDRESS: _____
 NEW EMPLOYER/ADDRESS: _____

6. **Lump Sum Payments:** You may be required to report and withhold from lump sum payments such as bonuses, commissions, or severance pay. If you have any questions about lump sum payments, contact the Child Support Enforcement (IV-D) Agency.
7. **Liability:** If you have any doubts about the validity of the Order or Notice, contact the agency or person listed below under 10. If you fail to withhold income as the Order or Notice directs, you are liable for both the accumulated amount you should have withheld from the employee's/obligor's income and any other penalties set by state or tribal law/procedure.

8. **Anti-discrimination:** You are subject to a fine determined under state or tribal law for discharging an employee/obligor from employment, refusing to employ, or taking disciplinary action against any employee/obligor because of a child support withholding.

9. **Withholding Limits:** For state orders, you may not withhold more than the lesser of: 1) the amounts allowed by the Federal Consumer Credit Protection Act (15 U.S.C. §1673(b)); or 2) the amounts allowed by the state of the employee's/obligor's principal place of employment. The federal limit applies to the aggregate disposable weekly earnings (ADWE). ADWE is the net income left after making mandatory deductions such as: state, federal, local taxes, Social Security taxes, statutory pension contributions, and Medicare taxes. The Federal CCPA limit is 50% of the ADWE for child support and alimony, which is increased by 1) 10% if the employee does not support a second family; and /or 2) 5% if arrears greater than 12 weeks.
 For tribal orders, you may not withhold more than the amounts allowed under the law of the issuing tribe. For tribal employers who receive a state order, you may not withhold more than the amounts allowed under the law of the state that issued the order.

Child(ren)'s Names and Additional Information: _____

Tennessee Employers/Payers of Income should refer to the Department's Rule 1240-2-2-.05, available on the Internet at <http://www.state.tn.us/sos/rules/1240/1240-02/1240-02-02.pdf>, for state specific information about the priority and proration of payments if multiple Orders/Notices are received for one employee.

10. If you or your employee/obligor have any questions, contact: _____ by telephone at _____
 by Fax at _____ or by Internet at _____@_____

Authority: T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

Rule 1240-2-2-.06, Court Clerk's Notice to Obligor of Issuance of Income Assignment Due to Delinquency, is amended by deleting paragraph (3) in its entirety and by substituting instead the following language so that, as amended, paragraph (3) shall read as follows:

- (3) For an Order for Income Assignment, the Federal Order/Notice to Withhold Income for Child Support (Order for Income Assignment) form set forth in 1240-2-2-.04 will be attached to the notice to the obligor in Paragraph (5).

Authority: T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

Rule 1240-2-2-.07, Department Notice to Obligor of Issuance of Income Assignment, is amended by deleting paragraph (2) in its entirety and by substituting instead the following language so that, as amended, paragraph (2) shall read as follows:

- (2) For an initial Order for Income Assignment, the Federal Order/Notice to Withhold Income or Child Support (Order for Income Assignment) form set forth in 1240-2-2-.04 will be attached to the Notice form in Paragraph (5).

Authority: T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

Rule 1240-2-2-.08, Department Notice to Obligor of Issuance of Income Assignment Due to Delinquency, is amended by deleting paragraph (3) in its entirety and by substituting instead the following language so that, as amended, paragraph (3) shall read as follows:

- (3) The Federal Order/Notice to Withhold Income for Child Support (Order for Income Assignment) form set forth in 1240-2-2-.04 will be attached to the Notice form in Paragraph (6).

Authority: T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

Rule 1240-2-2-.09, Department Notice to Obligor of Increase in Income Assignment to Administratively Reduce Arrears, is amended by deleting paragraph (2) in its entirety and by substituting instead the following language so that, as amended, paragraph (2) shall read as follows:

- (2) The modified form set forth in 1240-2-2-.04 will be attached to the Notice form in Paragraph (5).

Authority: T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

Rule 1240-2-2-.10, Department Notice of Enrollment in Health Care Coverage, is amended by deleting paragraph (2) in its entirety and by substituting instead the following language so that, as amended, paragraph (2) shall read as follows:

- (2) For a modification of a previous Order/Notice to Withhold Income for Child Support (Order for Income Assignment) which now includes a notice of enrollment in health care, the modified form set forth in 1240-2-2-.4, with the appropriate Departmental notice to the employer of enrollment of the obligor's child(ren) checked on page 1 of the form will be attached to the Notice form in Paragraph (4).

Authority: T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

Rule 1240-2-2-.12, Modified Order/Notice to Withhold Income for Child Support (Order for Income Assignment), is amended by deleting paragraph (3) in its entirety and by substituting instead the following language so that, as amended, paragraph (3) shall read as follows:

- (3) For a modification of the amount of a previous Order/Notice to Withhold Income for Child Support (Order for Income Assignment), the Notice form in Paragraph (3) will be attached, by the Department of Human Services or its contractors enforcing child support under Title IV-D, to the modified Order.

Authority: T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

Rule 1240-2-2-.12, Modified Order/Notice to Withhold Income for Child Support (Order for Income Assignment), is amended by deleting paragraphs (1), (2), and (3), the "Form," in their entireties and by renumbering the remaining paragraphs as appropriate.

Authority: T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

New Rule

Rule 1240-2-2-.05 Information for Withholding by Tennessee Employers/Payers of Income.

- (1) The Order/Notice to Withhold Income for Child Support, also referred to as an Order for Income Assignment, Income Assignment, Income Assignment Order, or Assignment, must be implemented no later than fourteen (14) calendar days after the date noted at the top-left portion of that form, the date of personal service, or the other date of any other form of transmission of this notice.
- (2) The payments may be deducted from the employee's or income recipient's wages, or other income, either weekly, biweekly, or monthly to coincide with his/her pay periods or other periods for payment of income, but must be sent to the address shown on page 1 of that Order within seven (7) days of the date the employee or income recipient is paid along with the date the deduction was made.
- (3) "Employer, person, corporation or institution," who or which may be required to withhold income, includes the federal government, the State and any political subdivision thereof and any other business entity which has in its control funds due to be paid to a person who is obligated to pay child support.
- (4) The amount withheld for support may not be in excess of fifty percent (50%) of the net wages of an employee or other income due an income recipient after the deduction of FICA, withholding taxes, and health insurance premiums which cover the child (ren).
- (5) This Order for Income Assignment is binding upon you until further notice by this office. If you fail to withhold income in accordance with the provisions of this Order, you are liable for any amount up to the accumulated amount which should have been withheld from the income of the employee or income recipient. Your compliance with this Order shall operate as a discharge of your liability to the affected employee or other recipient of income as to that portion of the employee's or recipient's income affected by the Order.
- (6) Tennessee Code Annotated §36-5-501(h) provides that the employer, person, corporation, or institution that is ordered to comply with this order shall be subject to a fine for a Class C misdemeanor if the income assignment is used as a basis to refuse to employ a person or to discharge the employee or for any disciplinary action against the employee, or if the employer fails to withhold the amounts from the employee or fails to pay such amount to the Clerk of the Court or the Department of Human Services as may be directed by the Order.
- (7) Withholding of support in accordance with this notice shall have priority over any other legal process under state law against the same wages or other income for debts other than child support.
- (8) If you are unable to deduct the full amount specified in this order due to the fifty percent (50%) limitation, the payment should also specify, for each obligor, the individual's income after taxes, FICA, health insurance premiums deducted to cover the child (ren), and whether you have received prior Orders for Income Assignment which prevent you from fully complying with this order.
- (9) You may, at your discretion, charge the employee or other recipient of income an amount of up to five percent (5%), not to exceed five dollars (\$5) per month, for your costs in complying with this order. This amount could vary upward depending on changes in the law at T.C.A. §36-5-501.
- (10) If you are required to withhold support from more than one person, it is allowable to combine withheld amounts in a single payment to each appropriate court or other entity ordering the assignments; however, you must provide a listing indicating which portion of the single payment is attributable to each individual.
- (11) The date the support was deducted from the obligor's paycheck must be provided with each payment transmitted to the Department.

- (12) Pursuant to T.C.A. § 36-5-501(g), you are required to notify the Department when the employee terminates employment or if income payments are terminated and provide this office the last known address of the employee/recipient of income and the name and address of his/her new employer, or new source of income, if known. This Order for Income Assignment is binding upon successive employers fourteen (14) days after it is transmitted to them.
- (13) **Priorities for Payments if More Than One Order for Income Assignment Is Received.**
If the employer, person, corporation or institution or other payer of income receives more than one (1) Order for Income Assignment against the employee/obligor, priority in deducting income shall be as follows:
- (a) First priority: To all orders for amounts due for current support due a child;
 - (b) Second priority: To all orders for amounts due for arrearages due a child;
 - (c) Third priority: To all orders for amounts due for current support due a spouse;
 - (d) Fourth priority: To all orders for amounts due for arrearages due a spouse; and,
 - (e) Fifth priority: To all statutory fees and court costs.
- (14) You must honor all withholdings to the extent the total amount withheld from wages does not exceed fifty percent (50%) of the employee's wages or a recipient's income after FICA, withholding taxes, and a health insurance premium which covers the child(ren) are deducted.
- (15) **Multiple Income Assignments for One Employee or Recipient of Income.**
If you receive any Order for Income Assignment for current child support against the employee's income which would cause the deductions from any two (2) or more assignments for current child support to exceed fifty percent (50%) of the employee's income after FICA, withholding taxes, and a health insurance premium which covers the child (ren) are deducted, the following process shall be utilized:
- (a) Determine the total of all current child support ordered withheld by all Orders for Income Assignment you receive for the employee or recipient of income;
 - (b) Then calculate the percentage that each current child support order represents of the total;
 - (c) The available income will be allocated by you according to the percentage which each Order for Income Assignment for current child support bears to the total of all Orders for Income Assignment involving this employee or recipient of income for current child support.
 - (d) In the event all current child support obligations are met from the assignments and child support arrearages exist in more than one case and there is not sufficient income to pay all ordered child support arrearages, then the child support arrearages will be allocated by you on the same basis as in steps 1- 3.
- (16) You must provide for each case the following information: docket number, county, state, full ordered amount, the percentage that each current support order represents of the total ordered amounts from all income assignments ordered for this employee or recipient of income, and the date the amount is deducted from the employee's or recipient's income.
- (17) **Example of a Proration for Multiple Income Assignment.**
- (a) Assume an employee's net income after taxes, FICA, and a health insurance premium to cover the child (ren) is deducted is \$900. Therefore, the available income for use in the income assignment is only \$450 (50% maximum of the employee's net income).
 - (b) If the employee is ordered to pay \$250.00 per month under support order A; \$200.00 per month for support order B; and \$150.00 per month for support order C; then the

total of all income assignments is \$600.00. This total exceeds income available for income assignment [after deduction for taxes, FICA, and health insurance premiums which cover the child (ren)].

- (c) You will then pay the amount of the available income that each Order for Income Assignment represents as a percentage of the total of all Orders for Income Assignment as follows:
1. Order A = $\$250/\600 , or 42%, x \$450 = \$189.00;
 2. Order B = $\$200/\600 , or 33%, x \$450 = \$148.50;
 3. Order C = $\$150/\600 , or 25%, x \$450 = \$112.50;
- (d) If the employee has sufficient available income to satisfy all current child support orders, but not all ordered child support arrearages, you would apply the same proration procedure to the child support arrearage payment as shown above.

Authority: T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

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I certify that this is an accurate and complete representation of the intent and scope or rulemaking proposed by the Tennessee Department of Human Services.

DK Beals

Kim Beals
Assistant General Counsel
Tennessee Department of Human Services

Subscribed and sworn to before me this the 31st day of March, 2005.

[Signature]
Notary Public
[Notary Seal]

My Commission Expires

My Commission expires on the ___ day of August 20, 2006 200__.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31 day of March, 2005.

Riley Darnell

Riley Darnell
Secretary of State

By: *[Signature]*

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