

# Maryland Register

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## Title 07 DEPARTMENT OF HUMAN RESOURCES

### Subtitle 07 CHILD SUPPORT ENFORCEMENT ADMINISTRATION

#### 07.07.24 Incarcerated Obligor

*Authority: Family Law Article, §12-104.1, Annotated Code of Maryland*

#### Notice of Proposed Action

[12-315-P]

The Secretary of Human Resources proposes to adopt new Regulations .01—.06 under a new chapter, **COMAR07.07.24 Incarcerated Obligor**.

#### Statement of Purpose

The purpose of this action is to authorize the Child Support Enforcement Administration to adjust payment records for obligors who are incarcerated for certain periods so that child support payments are not past due and arrears do not accrue. The Administration shall send written notice of the proposed action to the obligee that allows the obligee to object by requesting an investigation. The Administration shall process the investigation request prior to determining if the obligor's payment record shall be adjusted.

#### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

#### Estimate of Economic Impact

The proposed action has no economic impact.

#### Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

#### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

#### Opportunity for Public Comment

Comments may be sent to Andrea Shuck, Acting Regulations Coordinator, Department of Human Resources, Office of Government, Corp. and Comm. Affairs, 311 W. Saratoga Street, Room 270, Baltimore, MD. 21201-3521, or call 410-767-2149, or email to [AShuck@dhr.state.md.us](mailto:AShuck@dhr.state.md.us), or fax to 410-333-0637. Comments will be accepted through January 2, 2013. A public hearing has not been scheduled.

#### **.01 Purpose and Scope.**

*The Administration shall establish a procedure by which an obligee may challenge the Administration's intent to adjust the payment record of an obligor who has been sentenced to a period of incarceration of 18 months or more. The Administration may only make such an adjustment under this regulation with respect to a support order issued or modified after October 1, 2012.*

#### **.02 Applicability Criteria for Payment Record Adjustment.**

*A child support payment is not past due and arrears may not accrue during any period when an obligor is incarcerated, and continuing for 60 days after an obligor's release from confinement, if the obligor:*

*A. At the time of sentencing is expected to be imprisoned for 18 consecutive months or more:*

*(1) Including time served; and*

*(2) Excluding any portion of the sentence that is suspended;*

- B. Has no resources from which to pay support;*
- C. Is not on work release; and*
- D. Did not commit the crime with the intent of being incarcerated or otherwise becoming impoverished.*

**.03 Responsibilities of the Administration.**

- A. The Administration is providing services under Title IV-D of the Social Security Act.*
- B. The Administration may adjust an eligible obligor's payment account after an obligor is sentenced to at least 18 consecutive months, without filing a motion with the court.*
- C. The Administration shall send written notice of the proposed action to the obligee, prior to adjusting the obligor's payment account, that indicates that the obligee may object to the proposed action.*

**.04 Request for Investigation.**

- A. Within 20 days of the date of the notice, an obligee may object to the proposed action by requesting that the Administration conduct an investigation.*
- B. An obligee may request an investigation only on a claim that the obligor:*
  - (1) Was sentenced prior to October 1, 2012;*
  - (2) Was sentenced to less than 18 consecutive months;*
  - (3) Had resources from which to pay support;*
  - (4) Was on work release; or*
  - (5) Committed the crime with the intent of becoming incarcerated or otherwise impoverished.*
- C. An obligee shall submit to the Administration any documents relevant to the claim.*

**.05 Administration's Response to Investigation Request.**

*Upon receipt of a timely request for an investigation, the Administration shall:*

- A. Conduct an investigation;*
- B. Review any documents submitted by the obligee;*
- C. Prepare a written summary of the investigation, including any pending action; and*
- D. Forward the investigation summary to the obligee.*

**.06 Obligees' Objection to Investigation Results.**

*In the event the obligee disagrees with the action of the Administration, the obligee may file their objection with the Circuit Court for judicial determination.*

THEODORE DALLAS  
Secretary of Human Resources