



[HOME](#) > [TITLE 13](#) > [CHAPTER 5](#)

[§ 511](#) [§ 512](#) [§ 513](#) [§ 514](#) [§ 515](#) [§ 516](#) [§ 517](#) [§ 518](#) [§ 519](#) [§ 520](#)

## **TITLE 13**

### **Domestic Relations**

#### **CHAPTER 5. DESERTION AND SUPPORT**

##### **Subchapter II. Civil Enforcement**

#### **§ 511. Commencement of actions; obtaining jurisdiction over respondent.**

(a) Proceedings may be instituted in accordance with rules adopted by the Court, or upon a petition in which the petitioner alleges that defendant owes petitioner a duty of support and has refused or failed to provide such support.

(b) Jurisdiction may be acquired over respondent in any of the following ways:

(1) By issuance of summons by the Clerk of the Family Court, and service thereof by the sheriff or other person authorized to make service of process upon respondent, by delivering a copy of the summons, petition and any affidavit to respondent personally or by delivering copies thereof to an agent authorized by appointment or by law to receive service of process;

(2) By appearance of respondent, either personally or by executing and filing an appearance document in a form approved by the Court, with or without issuance of summons;

(3) By appearance of counsel for respondent, with or without issuance of summons;

(4) Under a court rule not inconsistent with this section; or

(5) As may be otherwise provided by law.

*59 Del. Laws, c. 567, § 1; [71 Del. Laws, c. 216, §§ 3, 4.](#)*

## **§ 512. Interim order.**

(a) At any time before trial upon petition of the complainant and upon notice to the defendant, the Court shall conduct a hearing and thereafter may enter such interim order, pending final judgment, as seems just, for the support of any dependent for whom support is sought. The Court may also enter an interim or emergency order for support in accordance with its rules and procedures.

(b) Section 913 of Title 10 notwithstanding, the report and recommendations of the Master with regard to a permanent, temporary, interim or emergency order entered under Chapter 4, 5 or 6 of this title shall become effective and enforceable immediately as an order of the Family Court when announced by the Master. Said order shall remain in full force and effect unless and until a party files a petition for review de novo within 15 days of the date said order is announced and makes application for and is granted a stay by order of a judge of the Family Court.

*27 Del. Laws, c. 262, § 3; Code 1915, § 3036; 35 Del. Laws, c. 189, § 1; Code 1935, § 3529; 13 Del. C. 1953, § 504; 59 Del. Laws, c. 567, § 1; 65 Del. Laws, c. 228, § 3; 67 Del. Laws, c. 158, § 4; 67 Del. Laws, c. 446, § 2.;*

## **§ 513. Judgment; order of support; other terms.**

(a) Where the duty of support has been determined to exist, the court may:

(1) Order the defendant to pay a certain sum periodically into the Division of Child Support Enforcement or directly to a dependent, his or her guardian, custodian or trustee, for a dependent's support for so long as the obligation of support shall exist;

(2) Order the defendant to pay a specific total amount into the Division of Child Support Enforcement or directly to a dependent, his or her guardian, custodian or trustee, in a lump sum or in such stated periodic amounts as the court deems proper;

(3) Order the defendant to pay directly to the obligee the cost of prenatal and postnatal medical, hospital, and other lying-in expenses incident to the birth of a child;

(4) Order the defendant to elect health insurance coverage for a child available through the defendant's employment, otherwise available at reasonable cost as defined in § 401(b)(11) of this title or to pay directly the cost of health insurance coverage for a child; provided, however, that any new or modified order entered in any case brought under Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.) shall require either or both parents to provide health insurance coverage for the child or children who are the subjects of the child support; and provided, further, that in any case brought under Title IV-D of the Social Security Act [42 U.S.C. § 651 et seq.] in which a parent is ordered to provide health care coverage for a child through an employment-related group health plan, the Division of Child Support Enforcement shall issue the National Medical Support Notice required by Title IV-D of the Social Security Act [42 U.S.C. § 651 et seq.] and federal regulations promulgated pursuant thereto, and the Division shall promptly notify the employer when there is no longer a current order for medical support in effect for which the Division is responsible;

a. In any case in which a parent is required by court or administrative order to provide health insurance coverage for a child and the parent is eligible for family health coverage through an employer doing business in this State, such employer shall:

1. Permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions).

2. If such a parent is enrolled but fails to make application to obtain coverage of such child, enroll such child under such family coverage upon application by the child's other parent, the Division of Child Support Enforcement or Division of Social Services. The court or administrative order providing for enrollment of the child shall constitute the application for enrollment.

3. Not disenroll (or eliminate coverage of) any such child unless the employer is provided satisfactory written evidence that:

A. Such court or administrative order is no longer in effect; or

B. The child is or will be enrolled in comparable health coverage which will take effect not later than the effective date of such disenrollment; or

C. The employer has eliminated family health coverage for all of its employees.

4. Where an obligor has been ordered to provide health insurance coverage for a child in a case enforced pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), receipt by an employer or successive employer of a National Medical Support Notice or other notice from the court or the Division of Child Support Enforcement of an order of a court or administrative agency requiring the obligor to provide health insurance coverage shall operate to enroll the child in the obligor's health insurance plan without regard to any enrollment season restrictions. The obligor may contest the notice by filing a petition in opposition thereto in the Family Court not later than 10 days after issuance of the notice. The petition in opposition may be based only on mistake of fact. Filing of a petition in opposition shall not relieve the employer of any duties under the notice, order or National Medical Support Notice until such time as the employer receives notice that the contest has been resolved. The Court or the Division of Child Support Enforcement shall send a copy of the notice to the obligor at the same time it sends notice to the employer.

b. An order for health insurance coverage shall operate as an assignment of all benefit rights to the obligee or to the child's health services provider, and in any claim against the coverage provider or insurer, the obligee or the obligee's assignee shall be subrogated to the rights of the obligor. Notwithstanding the provisions of this paragraph regarding assignment of benefits, this paragraph shall not require a health service contractor or a health maintenance organization to deviate from their contractual provisions and restrictions regarding reimbursement for covered services. If the coverage is terminated, the employer shall mail a notice of termination to the Division of Child Support Enforcement, or the obligee at the obligee's last known address, within 30 days of the termination date.

c. If an obligor fails to pay the required portion of any deductible under the health insurance coverage or fails to pay the required portion of medical expenses incurred in excess of the coverage provided under the plan, the obligee or the Division of Child Support Enforcement in cases brought under Part D of Title IV of the

federal Social Security Act [42 U.S.C. § 651 et seq.] may enforce collection of the obligor's portion of the deductible or the additional medical expenses through an appropriate order under this section, including attachment of the obligor's income. The amount of the deductible or additional medical expenses shall be added to the obligor's child support obligation and be collectible as provided by law if the obligor's share of the amount of the deductible or additional expenses is reduced to a sum certain in a court order.

d. Receipt of a National Medical Support Notice or an order for the enforcement of a medical support obligation shall require an obligor's employer to:

1. Answer the Division of Child Support Enforcement or the obligee, as directed, within 20 days and confirm that the child:

A. Has been enrolled in a health care plan, or that the employer has transferred a National Medical Support Notice to the appropriate group health plan providing any such coverage for which the child or children are eligible; or

B. Cannot be covered, stating the reasons why such coverage cannot be provided.

2. Transfer a National Medical Support Notice to the appropriate group health plan providing any such health care coverage for which the child or children are eligible within 20 business days of the date of the National Medical Support Notice.

3. Withhold any required premium from the obligor's income or wages, as provided in paragraph (b)(8) of this section.

4. If more than 1 plan is offered by the employer or health insurer, and each plan may be extended to cover the child, enroll the child in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor. When the plan administrator reports that there is more than 1 option available under the plan, the Division of Child Support Enforcement, in consultation with the obligee, must promptly select from available plan options.

5. Provide information to the Division of Child Support Enforcement or the obligee, as directed, about the name of the health

care provider or the insurer and the extent of the coverage available and make available to such party any necessary claim forms or enrollment membership cards.

e. Orders entered under this subsection may be enforced as provided in paragraphs (b)(9) and (10) of this section.

(5) Order 1 party to pay all or part of the cost to the other party of maintaining or defending any proceeding under this chapter and for attorneys' fees, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or after the entry of judgment, after considering the legal and factual basis for the action, the results obtained, the financial resources of both parties, and such other factors as the court deems just and equitable. The court may order that the amount be paid directly to the attorney, who may enforce the order in his or her name;

(6) Enforce its order by attachment of the defendant or by sequestration of property;

(7) Enter such other orders as the Court of Chancery heretofore possessed the power to enter, and as the interests of the parties may require, including but not limited to orders of custody and visitation;

(8) Order the defendant to move from the family home, even though titled in defendant's name alone or jointly with someone else, and not to live there for a reasonable period of time so that his or her spouse and/or child or children of the marriage might live there and enjoy the family home as an element of support;

(9) Enjoin the defendant from molesting or disturbing the peace of his or her spouse and/or child or children of the marriage for whom defendant is obliged to provide support;

(10) Restrain defendant from transferring, encumbering, concealing or in any way disposing of any property except in the usual course of business or for the necessities of life, and, if so restrained, requiring him or her to notify any person to whom he or she has an obligation of support, or such person's guardian, custodian or trustee, of any proposed extraordinary expenditure and to account to the court for all extraordinary expenditures made after the order is issued;

(11) Order the defendant to permit his or her spouse and/or child or children of the marriage to have the use of designated personal property and/or fixtures, even though titled in defendant's name alone or jointly with someone else, upon such terms and conditions as the court may impose, as an element of support;

(12) When a defendant fails to notify the court within 5 working days after a change of residential address hold the defendant in contempt of court and attach his or her wages.

(b)(1) Where a duty to support or to provide medical support has been determined to exist and a new or modified support order is established, and regardless of whether support or medical support payments are in arrears, the court shall attach the obligor's income, if any, as of the effective date of the order, for payment of support or premiums for health insurance coverage except that such income shall not be subject to such withholding under this paragraph in any case where:

a. One of the parties demonstrates, and the court (or administrative process) finds that there is good cause not to require immediate income withholding. Any finding that there is good cause not to require immediate income withholding must be based on at least:

1. A written determination that, and explanation by the court or administrative authority of why, implementing immediate income withholding would not be in the best interests of the child; and

2. Proof of timely payment of previously ordered support in cases involving modification of support orders; or

b. A written agreement is reached between both parties which provides for an alternative arrangement. As used herein, "written agreement" means a written alternative arrangement signed by both parents, or by the obligor and a representative of the Division of Child Support Enforcement in cases brought under Part D of Title IV of the federal Social Security Act [42 U.S.C. § 651 et seq.] in which there is an assignment of support rights to the State, and reviewed and entered in the record by the court or administrative authority.

c. In any case where an order of support is not subject to immediate income withholding under paragraph (b)(1) of this section, the obligor's income shall be attached automatically upon the filing of

a verified notice by the obligee of a default in payment for 7 working days, or the earliest of:

1. The date as of which the obligor requests that such withholding begin;

2. The date as of which the obligee requests that such withholding begin, and the State determines such request is appropriate; or

3. Such earlier date as the State may select.

(2)a. Where no withholding order is in effect for orders of support or medical support entered under this chapter, Chapter 6 of this title, or where the order is one of unallocated alimony and child support under Chapter 15 of this title including orders issued prior to March 5, 1986, the obligor's income shall be attached automatically upon the filing of a verified notice by the obligee of a default in payment for 7 working days, or earlier at the request of the obligor.

b. If the existing support order does not include payment on arrears, then the income attachment shall be issued in the amount of current support plus an amount payable toward arrears of up to 10 percent of the current support order or \$5.00, whichever is greater. If the existing medical support order does not include an attachment for payment of health insurance coverage, payment for the obligor's share (if any) for premiums of health insurance coverage shall be added to the attachment. The verified notice shall specify the amount requested to reduce the arrears. The remedy specified for recovery of arrearages shall be in addition to and not in substitution for remedies available elsewhere in this title.

(3) Where an order for attachment is to be issued under this subsection or Chapter 4 of this title, the obligor shall be notified upon the commencement of the withholding that the withholding has commenced and of the procedures to follow if the obligor desires to contest such withholding on the grounds that the withholding or the amount withheld is improper due to a mistake of fact. The notice shall include the information provided to the obligor's employer pursuant to federal law. The obligor shall have 10 days from the date of notification to file an affidavit in opposition to the attachment based only upon an assertion of a mistake of fact concerning the identity of the parties, the delinquency of payment, or the jurisdiction of the court. Any other defenses to the amount of the obligation may be



raised only in accordance with other provisions of this title. Full payment upon receipt of the notification shall not constitute grounds for contesting withholding. The court shall, upon consideration of the affidavit or affidavits, determine whether an issue of material fact or defense permissible under this section exists and shall, in accordance with that determination, schedule a hearing, order the termination of the attachment, or permit the attachment to continue. In either event, a final determination shall be made and both parties notified within 45 days of the notification.

(4)a. In all cases brought under Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.), a copy of the Court's income withholding order shall be issued to the Division of Child Support Enforcement and shall be served by the Division by first class mail upon the obligor's employer, and any successive employer, and such service shall be as effectual for all purposes as if served by the court.

b. In all cases brought under Title IV-D of the Social Security Act, the Division shall be authorized to file the verified notice on behalf of said obligee.

(5) For purposes of Chapters 4, 5 and 6 of this title, "income" is defined as any periodic form of payment due to an individual, regardless of source, including, but not limited to, wages, salary, commission, vacation pay, severance pay, bonuses, compensation as an independent contractor, workers' compensation, disability, sick pay, SUB benefits, medical benefits, unemployment compensation, railroad retirement, pensions, annuity and retirement benefits; provided, however, that income excludes:

a. Any amounts required by law to be withheld, other than creditor claims, including, but not limited to, federal, state and local taxes, Social Security and other mandatory retirement and disability contributions;

b. Union dues;

c. Any amounts exempted by federal law;

d. Public assistance payments; and

e. Tax refunds, which shall be governed by §§ 1205-1209 [repealed] of Title 30 and § 454 of the Social Security Act (42 U.S.C. § 654).

(6) "Employer" has the meaning given such term in § 4301(d) of the Internal Revenue Code of 1986 [repealed], and includes any governmental entity and any labor organization, as defined in § 2(5) of the National Labor Relations Act [29 U.S.C. § 152(5)], and includes an individual, partnership, association, corporation, trust, federal agency, state agency or political subdivision paying or obligated to pay income.

(7) Any attachment or execution to enforce an order for child support, medical support, or unallocated alimony and child support entered under this title shall not be subject to the exemptions or limitations set forth in § 3502 or § 4913 of Title 10 or § 5503 of Title 29. Said attachment for support shall also have priority over any other attachment, except an attachment for federal tax liens, regardless of whether such other attachment was perfected prior to the support attachment. The support and medical support attachment shall be subject to the limitations set forth in § 303(b) of the Consumer Credit Protection Act (15 U.S.C. § 1673(b)); provided, however, that an attachment of unemployment compensation shall not exceed 50 percent of the weekly payment thereof.

(8) Upon receipt of a certified copy of income withholding from the court or copy from the Division of Child Support Enforcement, the employer shall deduct the specified sum, which may include a fee, established by the State, to be paid to the employer, unless waived by the employer, from the income due the obligor-employee and shall, at or before the time the obligor-employee is paid, mail or otherwise deliver the said deduction for support to the Division of Child Support Enforcement or the obligee, as directed, and pay the health insurance premium amount deducted directly to the health insurer, and shall continue to do so for so long as the obligor remains in the employer's employ or until the court orders otherwise; provided, however, that when an employer receives an income withholding order issued by another state, the employer shall apply the law of the state of the obligor's principal place of employment in determining the factors enumerated in § 411(d) of this title. The withholding shall be effective with regard to any payment by the employer to the obligor after a reasonable time to give effect to the withholding, but in no event shall such withholding be delayed more than 7 days after the first pay-day following receipt of the wage attachment. In every case, the

remittance shall be by check or money order payable as directed and the remittance shall specify the obligor-employee's name and Social Security number. In the event the employer is withholding from more than 1 employee, and the payee is the Division of Child Support Enforcement, payment for the total amount may be remitted by a single check. Upon the termination of the obligor's employment, the employer shall notify the court, or the Division of Child Support Enforcement if the order of income withholding or National Medical Support Notice was served by the Division, of said termination and shall provide the court, or the Division if the order of income withholding or National Medical Support Notice was served by the Division, with the obligor-employee's last known address, along with the name and address of the obligor's future employer, if known. If the obligor contests such withholding, the employer must initiate withholding until such time as the employer receives notice that the contest is resolved.

(9) Upon receipt of the certified copy of the order of income withholding from the court or from the Division of Child Support Enforcement by certified mail, the employer becomes primarily liable for the payment of the obligations for support and medical support set forth in such order, as well as such criminal and civil sanctions as the court may impose in the event that the employer fails to comply with the terms of such income attachment and is found to be in contempt by the court.

(10) Any employer who fails to comply with the terms of this section or who dismisses, terminates or causes the termination of an obligor's employment as a result of an attachment under this section shall be fined for the first offense not more than \$1,000 or imprisoned not more than 90 days, or both, and for each subsequent offense shall be fined not more than \$5,000 or imprisoned not more than 1 year, or both. Any employer who refuses to hire an obligor as a result of an attachment under this section shall be liable for a civil penalty of not more than \$200 for the 1st offense and each subsequent offense. If the employer is a corporation, criminal liability shall be established pursuant to §§ 281-284 of Title 11.

(11) Withholding of income for support or medical support under this section shall remain in effect as long as the order for support or medical support upon which it is based, or any modification thereof.

(12) The Division of Child Support Enforcement is designated as the State Income Withholding Agency. The Division shall distribute all amounts received promptly in accordance with § 457 of the Social Security Act (42 U.S.C. § 657) and shall allocate amounts received when there is more than 1 obligee in accordance with rules promulgated by the federal Department of Health and Human Services.

a. In any case enforced under Title IV, Part D, of the Social Security Act (42 U.S.C. § 651 et seq.), and notwithstanding the provisions of the Administrative Procedures Act, Chapter 101 of Title 29, the Division is hereby authorized:

1. To order income withholding in accordance with this chapter, without the necessity of obtaining an order from any other judicial or administrative tribunal, and shall recognize and enforce the authority of state IV-D agencies of other states to do the same.

2. To execute an income withholding order without advance notice to the obligor, including issuing the withholding order through electronic means.

b. In cases in which support is subject to an assignment pursuant to Part A of Title XIX of the Social Security Act [42 U.S.C. § 1396 et seq.] or to a requirement to pay through the state disbursement unit, upon providing notice to the obligor and obligee, the Division may direct the obligor or other payor to change the payee to the appropriate governmental entity.

(13) Any attachment or execution to enforce an order entered under this chapter or an order for alimony, division of property or other financial relief under Chapter 6, 7, 13 or 15 of this title shall not be subject to the exemptions or limitations set forth in § 3502 or § 4913 of Title 10.

(14) An employer who complies with an income withholding notice or National Medical Support Notice that is regular on its face shall not be subject to civil liability to any individual or agency for conduct in compliance with the notice.

(c)(1) Following the entry of any order of support or medical support under this chapter, the parties must notify each other in writing of every change in circumstances which might materially affect

the existing support or medical support order; and, in addition, each party shall exchange completed financial report forms every 12 months to determine how the needs of those receiving support are being met with the support paid, and whether any modification should be made to the existing support order based upon the factors set forth in § 514 of this title.

(2) Where an order for child support, including orders issued prior to March 31, 1987, has been entered under this chapter, Chapter 6 or Chapter 15 of this title, the right of each and every child support installment or payment becomes absolute and vested upon coming due with the full force, effect and attributes of a judgment of the Family Court of the State.

(3) Remedies available under this subsection are cumulative with any and all other remedies available to enforce a child support obligation.

(4) After receipt by the Division of Child Support Enforcement of a copy of an order of child support as set forth in paragraph (c)(1) of this section made payable through the Division, the Division shall promptly record all payments received and apply said payments to installment or payment amounts due and owing by the obligor in accordance with regulations promulgated by the federal Department of Health and Human Services. The Division may establish administrative procedures to make technical corrections in the Division's accounting records. With regard to any order of child support made payable through the Division, the Division's records shall be presumptive of the payment or nonpayment of each installment payment.

(d)(1) The Court shall have continuing jurisdiction to modify prospectively an order of child support entered by the Court including orders issued prior to March 31, 1987, so long as the obligated party has a duty of support under this chapter, Chapter 6 or Chapter 15 of this title and at least 1 of the parties or the child whose support is at issue resides in the State or as provided in § 6-205(a)(2) of this title.

(2) An order of child support entered by this Court or a court of competent jurisdiction in this or any other state, including orders entered prior to March 31, 1987, shall not be retroactively modified except with respect to any period during which there is pending petition for prospective modification but only from the date that notice of such petition has been given to the respondent directly or through

the respondent's agent. In addition to any other manner or type, "notice" for the purposes of this paragraph shall include but not be limited to mailing by the petitioner of a copy of the modification petition by certified or registered mail, return receipt requested, to the last known address of the respondent. Said notice shall be effective on the date of delivery or first attempted delivery whichever first occurs.

(3) Whenever the Court considers a petition to modify child support, the Court shall also consider whether medical support should be ordered or modified, as provided in this chapter. When the Court considers a petition to establish or modify medical support, such petition shall also put the order for child support at issue, and the Court will determine whether the child support amount should be modified in accordance with the guidelines.

(e) The Court shall have continuing jurisdiction to enforce an order of child support entered by the Court, including orders issued prior to March 31, 1987, so long as the obligated parent has a duty to support the child or children under this chapter, Chapter 6 or Chapter 15 of this title or there are arrearages or past due amounts due and owing on such an order. Nothing in this subsection shall be construed as limiting the Court's authority under Chapter 4 of this title.

(f) Each party to a support order shall report any change in his or her current residential address, driver's license number, telephone number, employer, employer's address and employer's telephone number to the Family Court, and to the Division of Child Support Enforcement in any case enforced by the Division pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), within 5 days of when the change occurs. Notice for purposes of enforcing or modifying a child support order shall mean:

(1) Mailed notice to the last known residential address provided to the Family Court by the party; or

(2) Upon a showing of diligent efforts to locate a party, mailed notice to the last known employment address provided to the Family Court by the party; provided, however, that where the respondent is a IV-D client as defined by regulation of the Secretary of the Department of Health and Social Services, the Division of Child Support Enforcement shall be the appropriate agent for the receipt of any such notice.

(g) Upon receipt of a written request, or a request by other electronic means where available, from the Director of the Division of Child Support Enforcement in any case enforced by the Division pursuant to Title IV-D of the Social Security Act (42 U.S.C. Sec. 651, et seq.), any employer, as that term is defined in paragraph (b)(6) of this section, and any labor organization, as that term is defined in § 710 of Title 19, shall cooperate with and provide relevant employment and income information in the possession of such employer or labor organization to the Director or the Director's designee for the purpose of establishing, modifying or enforcing a child support order. Relevant employment and income information includes: Whether a named person has or has not been employed by an employer or whether a named person has or has not been employed to the knowledge of the labor organization; the full name of the employee or member; the employee's or member's last known address; the employee's or member's date of birth; the employee's or member's social security number; all income, as that term is defined in paragraph (b)(5) of this section, paid to the employee or member in the prior and current calendar year and the employee's or member's current rate of pay; and whether dependent health insurance coverage is available to the employee or member through employment or membership in the labor organization, together with information about the name of the health care insurer and the extent of the coverage available.

(1) An employer or labor organization shall be immune from any liability for providing information pursuant to this subsection.

(2) Any employer or labor organization which fails or refuses to provide the information described in this subsection within 30 days after receipt of a request from the Director of the Division of Child Support Enforcement or as otherwise provided in such request shall be punished by a fine of not less than \$100 nor more than \$500. For a second or subsequent offense, such employer or labor organization shall be fined not less than \$500 nor more than \$1,000. A fine under this section may not be suspended. If the employer or labor organization is a corporation, criminal liability shall be established pursuant to §§ 281-284 of Title 11.

(h) Every child support order entered under this chapter or under Chapter 4 or 6 of this title shall include the name, residential address, social security number, date of birth, driver's license number, telephone number, employer, employer address and employer telephone number of each party.

(i) Notwithstanding any other law, rule or regulation to the contrary, a child support payment shall not be subject to attachment, garnishment or execution.

*27 Del. Laws, c. 262, § 4; Code 1915, § 3037; Code 1935, § 3530; 46 Del. Laws, c. 92, § 1; 13 Del. C. 1953, § 506; 59 Del. Laws, c. 567, § 1; 60 Del. Laws, c. 332, § 1; 63 Del. Laws, c. 273, § 1; 63 Del. Laws, c. 274, § 1; 64 Del. Laws, c. 139, §§ 1-3; 65 Del. Laws, c. 228, §§ 1, 10; 66 Del. Laws, c. 7, §§ 1, 2; 66 Del. Laws, c. 405, § 1; 66 Del. Laws, c. 406, § 1; 67 Del. Laws, c. 403, §§ 1-3; 67 Del. Laws, c. 446, §§ 3-5; 69 Del. Laws, c. 70, §§ 1, 2; 69 Del. Laws, c. 445, §§ 5-16; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 288, §§ 1-4; [71 Del. Laws, c. 216, §§ 8-11, 29-45, 51, 52](#); [73 Del. Laws, c. 278, § 1](#); [73 Del. Laws, c. 338, §§ 1-11](#); [75 Del. Laws, c. 236, §§ 1, 2, 3](#); [75 Del. Laws, c. 249, §§ 1, 2.](#);*

#### **§ 514. Determination of amount of support.**

In determining the amount of support due to one to whom the duty of support has been found to be owing, the court, among other things, shall consider:

(1) The health, relative economic condition, financial circumstance, income, including the wages, and earning capacity of the parties, including the children;

(2) The manner of living to which the parties have been accustomed when they were living under the same roof;

(3) The general equities inherent in the situation.

*59 Del. Laws, c. 567, § 1.;*

#### **§ 515. Procedural rights of parties.**

(a) All parties to a civil action brought pursuant to this chapter shall possess all procedural rights which such parties would have heretofore possessed in an action for support or separate maintenance in the Court of Chancery of the State, including but not limited to the following:

(1) Right to institute and retain complete control of the suit;

(2) Right to select counsel;



(3) Right to appeal to the Supreme Court of the State, on the record, from interlocutory or final orders or judgments. Such appeal shall be in the form and manner provided by the Rules of the Supreme Court.

(b) For purposes of this section, a child born out of wedlock shall possess the same procedural rights as a child born in wedlock and the mother of a child born out of wedlock shall possess the same procedural rights as the mother of a child born in wedlock.

(c) A complete record shall be made of all proceedings in which testimony is taken under this section, by court stenographer, tape recorder, or other device, the method to be at the discretion of the Court.

(d) The Family Court shall by rule provide for expedited procedures for the determination and enforcement of support obligations established under this chapter, Chapter 4 and Chapter 6 of this title. These procedures shall include, except in appropriate cases and on a showing of good cause as herein provided, the mandatory use of such expedited process before a hearing can be held before a judge. The Court shall by rule adopt procedures to provide, in appropriate cases, for the determination that there is good cause to proceed directly to a hearing before a judge.

*59 Del. Laws, c. 567, § 1; 65 Del. Laws, c. 228, § 4; 70 Del. Laws, c. 186, § 1.;*

**§ 516. Violation of support order for spouse or child; proceedings; contempt; assignment of income; employer's duties.**

(a) If the Court, after notice to defendant and a hearing on a rule to show cause, concludes that the defendant has violated the terms of an order of support for a spouse or child, it may punish such defendant for contempt and may attach the defendant's income. In any case enforced under Title IV, Part D, of the Social Security Act (42 U.S.C. § 651 et seq.), the income of a person with a support obligation imposed by a support order issued (or modified) in this State before October 1, 1996, if not otherwise subject to withholding under § 513 of this title, shall, by operation of law, become subject to withholding as provided in § 513 of this title if arrearages occur, without the need for a hearing.

(b) Order by income attachment and/or by direct payment an additional amount toward arrears in addition to any amount ordered pursuant to § 513(b) of this title.

(c) In cases where the Court deems it appropriate, it may accept a voluntary assignment of income from the defendant in lieu of an attachment of the defendant's income.

(d) The Court or the Division of Child Support Enforcement shall notify the Department of Health and Social Services of any arrearage of support payments due from a defendant in order that the Department may proceed to set off said arrearage pursuant to §§ 1205-1209 [repealed] of Title 30 against any refund of personal income taxes to which said defendant may be entitled.

(e) Upon a finding by the Court of a violation of a support order after notice to a defendant and a hearing on a rule to show cause, and in the case of a defendant who derives income from self-employment by an employer not subject to the jurisdiction of the Court, or from any other type of employment which makes the attachment of income impractical, the Court shall require the person to enter into bond or other adequate collateral security, with or without sureties, to secure payment of the obligation to the Court in the amount of the past-due support plus a sum fixed by the Court to insure the payment of support as it becomes due for a period of not less than 3 months, conditioned upon the person making payment as previously ordered. The Court may order the cancellation of the bond or other collateral security upon proof of full payment of past-due and current support pursuant to the support order, as follows:

(1) The Court may order the cancellation of a bond or other collateral security imposed for a first violation of support order after proof of full payment of past-due and current support payments;

(2) The Court may order the cancellation of a bond or other collateral security imposed for a second violation of support order 12 months after proof of full payment of past-due and current support payments; and

(3) The Court may order the cancellation of a bond or other collateral security imposed for a third violation of support order 24 months after proof of full payment of past-due and current support payments.

(f) When an arrearage has accrued for 90 days under a support order, and the existing support order does not include payment on arrears, the amount of the order shall, by operation of law, be increased by 10 percent of the current support order or \$5.00, whichever is greater. The remedy specified for recovery of arrearages shall be in addition to and not in substitution for remedies available elsewhere for the enforcement of a support order.

(g) Upon a finding by the Court that an obligor owes \$1,000 or more in arrears or retroactive support and is 30 or more days delinquent in payment of the child support order, in addition to any other orders, the Court may order the suspension of the obligor's license, as that term is defined in § 2216 of this title. Such an order shall also render the obligor ineligible for the issuance or renewal of any such license.

In all cases administered under Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), the Court shall forward such Order to the Director of the Division of Child Support Enforcement to be carried out pursuant to section 2216(g) of this title. In all other instances, the Court shall notify the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and/or the Director of the Division of Professional Regulation of the denial or suspension of a license pursuant to this subsection. Such notification may be made electronically, by computer or by such other means as the Court and the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and the Director of the Division of Professional Regulation may agree, and such notification shall constitute sufficient authority for the denial or suspension of any license.

The Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and/or the Director of the Division of Professional Regulation shall forthwith deny the issuance or renewal of any license, or suspend the same, and so notify the obligor. The order of the Court shall be conclusive, and the action of the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and/or the Director of the Division of Professional Regulation in compliance therewith shall be effective 4 days after the date notice of same is mailed to the obligor at the address on record at the Division of Motor Vehicles, the Division of

Revenue, the Division of Fish and Wildlife or the Division of Professional Regulation.

The obligor shall remain ineligible for the issuance, renewal or reinstatement of any license until the obligor obtains from the Court written certification that the grounds for denial or suspension of a license under this subsection no longer exist. Nothing in this subsection shall be construed as limiting the denial or suspension of any license as provided in § 2216 of this title.

(h) Notwithstanding any contrary provision of this chapter or Chapter 22 of this title, the Court may, in a pending proceeding related to child support, order the removal of any or all restrictions on licensed privileges proposed or imposed related to a failure to pay child support, and without regard to whether the suspension or revocation was a result of the action of the Court or the Division of Child Support Enforcement where the removal of such restrictions is in the best interests of the child or children) and the parties as it relates to the ability of the obligor to meet the obligor's parental obligations. The Court shall establish rebuttable standards in consultation with the Division of Child Support Enforcement to insure the uniform and equitable application of the license suspension program.

(i) If the defendant has violated the terms of an order for support, and owes arrears, the Court may order the defendant to pay such support in accordance with a plan approved by the Court or the Division. If the defendant is subject to such a plan, and is not incapacitated, the Court may order an unemployed or under-employed defendant to participate in such work activities as may be available under a program operated by a state or private agency as the Court or the Division deems appropriate. In any case in which the Court orders the defendant to participate in work activities, the Court may also order the temporary decrease of support, mediation assistance, job training, peer support or any other program or intervention it deems necessary to assist the defendant in obtaining or maintaining appropriate employment.

*27 Del. Laws, c. 262, § 7; Code 1915, § 3040; 34 Del. Laws, c. 196, § 1; Code 1935, § 3533; 47 Del. Laws, c. 400, § 3; 13 Del. C. 1953, § 507; 57 Del. Laws, c. 254; 59 Del. Laws, c. 567, § 1; 63 Del. Laws, c. 70, § 1; 64 Del. Laws, c. 139, §§ 4, 5; 64 Del. Laws, c. 296, § 1; 65 Del. Laws, c. 228, § 2; 67 Del. Laws, c. 403, § 4; 67 Del. Laws, c.*

*446, § 7; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 452, § 2; [71 Del. Laws, c. 216, §§ 2, 46-50, 75-79, 81](#); [75 Del. Laws, c. 207, §§ 1, 5](#);*

### **§ 517. Termination of child support.**

(a) An order of current child support entered by this Court or a court of competent jurisdiction in this State shall terminate by operation of law when all minor children subject to said order have reached 18 years; provided, however, that if a child over 18 is still enrolled in high school current support shall terminate by operation of law when the child receives a high school diploma or attains the age of 19, whichever event first occurs.

(b) An order of current child support entered by this Court or a court of competent jurisdiction in this State shall terminate if custody of all children who are the subject of said order is transferred to the obligated parent pursuant to an order of a court of competent jurisdiction or the written voluntary agreement of the parents.

(c) Notwithstanding the above, the obligation for payment of arrears or past due support shall terminate by operation of law when all arrears or past due support have been paid.

*66 Del. Laws, c. 7, § 3.;*

### **§ 518. Accounting.**

A person who receives funds from another person for the support of a child in his or her care is a fiduciary with respect to such funds and may be ordered by the Court to account for the expenditure and management of such funds on application by any payer of such funds for good cause shown. Any application filed for such an accounting shall state with particularity the reasons why it is being sought and the basis for believing that such an accounting is necessary. The Court may dismiss any application for an accounting if the application does not show good cause why such an accounting should be ordered, and the Court shall order that all costs and reasonable counsel fees incurred by the fiduciary in his or her defense be paid by the unsuccessful applicant. If an accounting is granted by the Court, it may equitably apportion the costs, including reasonable counsel fees, of the action among the parties to the proceeding after taking into account the legal and factual basis for the action, the results obtained, the financial resources of the parties, and such other factors as the Court deems just and equitable.

*67 Del. Laws, c. 446, § 6; 70 Del. C., c. 186, § 1.;*

**§ 519. Child support liens.**

Repealed by 71 Del. Laws, c. 216, § 160, effective July 25, 1997.

**§ 520. Drivers', professional, occupational and business licenses.**

Transferred.