

62A-11-504 Procedures for commencing income withholding.

- (1) If income withholding has not been commenced in connection with a child support order, an obligee or obligor may commence income withholding by:
 - (a) applying for IV-D services from the office; or
 - (b) filing an ex parte motion for income withholding with a district court of competent jurisdiction.
- (2) The office shall commence income withholding in accordance with Part 4, Income Withholding in IV-D Cases, upon receipt of an application for IV-D services under Subsection (1)(a).
- (3) A court shall grant an ex parte motion to commence income withholding filed under Subsection (1)(b) regardless of whether the child support order provided for income withholding, if the obligee provides competent evidence showing:
 - (a) the child support order was issued or modified after January 1, 1994, and the obligee or obligor expresses a desire to commence income withholding;
 - (b) the child support order was issued or modified after January 1, 1994, and the order contains a good cause exception to income withholding as provided for in Section 62A-11-502, and a delinquency has occurred; or
 - (c) the child support order was issued or modified before January 1, 1994, and a delinquency has occurred.
- (4) If a court grants an ex parte motion under Subsection (3), the court shall order the clerk of the court or the requesting party to:
 - (a) mail written notice to the payor at the payor's last-known address that contains the information required by Section 62A-11-506;
 - (b) mail a copy of the written notice sent to the payor under Subsection (4)(a) to the nonrequesting party's address and a copy of the support order and the notice to the payor to the office; and
 - (c) if the obligee is the requesting party, send notice to the obligor under Section 62A-11-304.4 that includes:
 - (i) a copy of the notice sent to the payor; and
 - (ii) information regarding:
 - (A) the commencement of income withholding; and
 - (B) the opportunity to contest the withholding or the amount withheld due to mistake of fact by filing an objection with the court within 20 days.
- (5) A payor who receives written notice under Subsection (4)(a) shall comply with the requirements of Section 62A-11-507.
- (6) If an obligor contests withholding, the court shall:
 - (a) provide an opportunity for the obligor to present evidence supporting his claim of a mistake of fact;
 - (b) decide whether income withholding should continue;
 - (c) notify the parties of the decision; and
 - (d) at the obligor's option, return or credit toward the most current and future support payments of the obligor any amount mistakenly withheld plus interest at the legal rate.

Amended by Chapter 188, 1998 General Session