

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 1618
Appropriations

(Chair, Appropriations Committee)

Unpaid Child Support - Liens Against Monetary Awards Owed to Child Support
Obligors

This bill establishes that unpaid child support is an automatic lien against the “net proceeds” of a “monetary award” owed to the child support obligor. Monetary award means • any portion of a settlement paid in lieu of or subsequent to the filing of a lawsuit; • a civil judgment or award paid as a third-party claim for injury or death under a property and casualty insurance policy; or • a workers’ compensation lump sum award.

Fiscal Summary

State Effect: Minimal increase in special fund revenues from increased child support collections from the attachment of liens to monetary awards. It is anticipated that the bill’s provisions could be implemented with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Net proceeds means money exceeding \$1,500 payable to a prevailing party or a beneficiary or a lump sum workers’ compensation benefit after payment of attorney and witness fees, court costs, reasonable litigation expenses, and documented unpaid medical treatment expenses causally related to the workers’ compensation claim.

Distribution of a monetary award must be withheld in an amount equal to a child support arrearage pending payment of the lien. Before receiving the net proceeds of a monetary award or lump-sum payment of workers' compensation benefits, the prevailing party or beneficiary must provide his or her attorney or the Workers' Compensation Commission with information as specified in the bill, including the amount of child support arrears reported by the Child Support Enforcement Administration. If no arrearage exists, the obligor must provide written confirmation from CSEA or the local office handling the support order. The attorney of the prevailing party or beneficiary must contact CSEA in writing to verify whether or not the individual has an existing child support obligation or owes any overdue child support before delivery of any executed release. The attorney may not allow distribution of a monetary award to the prevailing party or beneficiary until a response is received. If the lien is against workers' compensation benefits, WCC must order payment of the lien for unpaid child support to the State disbursement unit established by CSEA from the net proceeds that are due to the claimant.

If the existence of an arrearage is confirmed, the attorney has to inform the insurance company or payor of the legal obligation to protect the lien and pay the lien to the State disbursement unit. If there are multiple child support orders, the unit must disburse proceeds among the cases as required by law.

If the prevailing party or beneficiary does not have legal representation, the individual must provide the statement and written documentation of arrears status to the insurer or other paying agent. The insurer or paying agent has to pay the lien or disputed lien amount from the net proceeds to the State disbursement unit.

An attorney, insurer, or other paying agent that complies with the bill's provisions is immune from any criminal, civil, or administrative penalty for making an erroneous distribution. A person may not have a claim or cause of action against an attorney, insurer, or other paying agent by asserting that he or she is the intended obligee for the outstanding lien for child support.

If there is a dispute regarding the amount of arrears owed that is based on a mistake of fact, the amount in arrears must be placed in escrow in the State disbursement unit. The escrowed funds may not be distributed until the dispute is resolved.

Current Law: Unpaid child support constitutes a lien in favor of the obligee on all real and personal property of the obligor. A child support lien arises on the date of the notice that support is due and continues until the date when the child support lien is satisfied, or released by CSEA because the child support lien is unenforceable or uncollectible, or the lien is released by court order. CSEA may file a notice of a child support lien with the clerk of a circuit court. From the date on which a child support lien is filed, the child

support lien has the full force and effect of a judgment lien. If a child support lien is not satisfied or released, CSEA may bring an action in circuit court to enforce the lien. If the claim of an obligee is established, the court may order a sale of the property or the rights to property and the distribution of any proceeds to CSEA or the obligee.

State law does not require a monetary award given to a child support obligor to be reduced by the amount of an existing child support arrearage.

State law requires that income tax refunds, payments from lottery winnings and payments from the State, including vendor payments, travel reimbursements, and other employment-related reimbursements are subject to interception if CSEA is providing services as specified under the federal Social Security Act, and CSEA certifies that an obligor is \$150 or more in arrears on a child support obligation. Interception is also available to those parents who apply for support enforcement services from CSEA for income tax refunds or lottery winnings that are due the obligor, if the obligor is in arrears by \$150 or more. When the Comptroller or the State Lottery Agency receives certification from CSEA about a child support arrearage, the Comptroller or the State Lottery Agency withholds the amount of arrearage from any refund or winnings due to the obligor and forwards the withheld amount to CSEA. The obligor must be notified of the amount paid to CSEA and that the obligor has a right to appeal the intercept to the Office of Administrative Hearings.

Background: The U.S. Department of Health and Human Services, through OCSE, sets standards for the administration of child support enforcement programs. All states participate in this partnership. The federal government reimburses states for about two-thirds of the cost of their child support enforcement programs through cooperative reimbursement grants. States may also receive incentives for innovative programs or for early compliance with federal standards.

State Fiscal Effect: Temporary Cash Assistance recipients must assign their support rights to the State and federal governments as partial reimbursement for payments made on behalf of the children of the obligor. As a result, TCA child support collections are distributed 50% to the State and 50% to the federal government. Special fund revenues could increase to the extent that the bill increases child support collections. Any such increase cannot be quantified due to the unavailability of data. The impact on collections, however, is expected to be minimal.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources, Judiciary (Administrative Office of the Courts), Workers' Compensation Commission, Comptroller's Office, Maryland Insurance Administration, Department of Budget and Management, Charles County, Frederick County, Montgomery County, Department of Legislative Services

Fiscal Note History: First Reader - March 19, 2008
mll/hlb

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