

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 761

(Delegate Pena-Melnyk, *et al.*)

Judiciary

Courts - Exemptions from Execution on a Judgment - Exception for Child Support and Alimony

This bill creates an exception to a provision of law that exempts certain items from execution on a judgment. Under the bill, 55% of any money payable in the event of sickness, accident, injury, or the death of any person, including compensation for loss of future earnings, is subject to execution on a judgment for child support or alimony arrearages. The bill also establishes that general provisions of law that exempt certain items from execution on a judgment do not apply to child support liens enforced by the Child Support Enforcement Administration (CSEA).

Fiscal Summary

State Effect: Minimal increase in special fund revenues to the extent that the bill increases the amount of child support collected. Expenditures are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A “money judgment” is a judgment that a specified amount of money is immediately payable to the judgment creditor. A money judgment constitutes a lien on the debtor’s interest in real or personal property located where the judgment was rendered. A judgment may be executed by a writ. A sheriff or constable may then seize the legal or equitable interest of the debtor in real or personal property. A writ of execution on a money judgment does not become a lien on the personal property of the

debtor until an actual levy is made. The lien then extends only to the property included in the levy. In general, the following items are exempt from execution on a money judgment:

- wearing apparel, books, tools, instruments or appliances up to \$5,000 in value that are necessary for the practice of any trade or profession except for those items kept for sale, lease, or barter;
- money payable in the event of sickness, accident, injury or death of any person, including compensation, for loss of future earnings. The exemption includes money payable for judgments, arbitrations, compromises, insurance benefits, compensation, and relief. The exemption does not include disability income benefits if the judgment is for necessities after the occurrence of the disability;
- professionally prescribed health aids for the debtor or any of the debtor's dependents;
- up to \$1,000 in value in household furnishings and goods, wearing apparel, appliances, books, pets and other items held primarily for personal, family, or household use of the debtor or any dependent of the debtor;
- cash or property valued at \$6,000, if within 30 days from the date of attachment or levy by the sheriff, the debtor elects to exempt cash or selected property items up to a cumulative value of \$6,000;
- money payable or paid in accordance with an agreement or court order for child support; and
- money payable or paid in accordance with an agreement or court order for alimony, to the extent that wages are exempt from attachment.

Provisions relating to exemptions do not impair the following:

- vendor's purchase money lien on land;
- mechanics' liens;
- tax liens; or
- mortgage, deed of trust, or other security interest.

Unpaid child support which is due under an order requiring payments through a child support enforcement agency constitutes a lien in favor of the obligee on all real and personal property of the obligor. The lien continues until the date on which the child

support lien is (1) satisfied; (2) released by CSEA because it is unenforceable or uncollectable; or (3) released by the court. (See Family Law Article § 10-140.)

Background: The Court of Appeals, in *Rosemann v. Salsbury, Clements, Beckman, Marder, & Adkins, LLC*, 408 Md. 487 (2009) considered whether money received as part of a settlement in a personal injury case was exempt from execution on a judgment for child support arrearages. In *Rosemann*, the appellant had obtained two judgments against his ex-wife for child support arrearages in the amount of \$3,852 and \$30,709. His ex-wife subsequently received a settlement of \$30,000 based on injuries sustained on an airline flight. The appellant filed writs of garnishment to obtain the proceeds of the settlement, however, the trial court granted a motion for summary judgment filed on the basis that the funds were exempt from execution on a judgment and the Court of Special Appeals affirmed. The Court of Appeals also affirmed, holding that money received by a judgment debtor as part of a personal injury settlement is exempt from execution, even from a judgment based on child support arrearages. The Court of Appeals noted the plain language of the statute and its clear applicability to the facts of the case and declined to carve out an exception to the statute based purely on a general public policy of enhancing efforts to enforce child support awards.

State Revenues: Temporary Cash Assistance (TCA) recipients must assign their support rights to the State and federal governments as partial reimbursement for payments made on behalf of the child of the obligor. As a result, TCA child support collections are distributed 50% to the State and 50% to the federal government. Because the bill establishes that certain exemptions against execution on a judgment do not apply to child support liens enforced by CSEA, special fund revenues may increase to the extent that the amount of child support collected on behalf of TCA recipients increases. Any such increase cannot be quantified due to the unavailability of data, but is not expected to be significant.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources, Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2010
mlm/kdm

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