

Department of Legislative Services
 Maryland General Assembly
 2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 23 (Chair, Judicial Proceedings Committee)(By Request -
 Departmental - Human Services)

Judicial Proceedings

Child Support - Lien Against Monetary Award

This departmental bill establishes a process by which the Child Support Administration (CSA) may intercept the net proceeds of a “monetary award” if an individual has delinquent child support obligations. A “monetary award” is a lump sum payable to an award recipient for sickness, accident, injury, or death of any person, as specified, whether paid in accordance with the Maryland Workers’ Compensation Act or by a property and casualty insurer, including a self-insurer, authorized to do business in the State. The bill establishes that child support arrears constitute a lien against the net recovery of a monetary award up to the maximum lien amount.

Fiscal Summary

State Effect: General and federal fund expenditures increase by \$218,900 in FY 2020. Future year expenditures reflect annualization. Federal fund revenues increase correspondingly with federal fund expenditures.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
FF Revenue	\$135,500	\$143,500	\$143,500	\$143,500	\$143,500
GF Expenditure	\$83,400	\$73,900	\$73,900	\$73,900	\$73,900
FF Expenditure	\$135,500	\$143,500	\$143,500	\$143,500	\$143,500
Net Effect	(\$83,400)	(\$73,900)	(\$73,900)	(\$73,900)	(\$73,900)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill is not anticipated to materially impact the workload of the circuit courts.

Small Business Effect: The Department of Human Services (DHS) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary: “Award recipient” means a person who receives or is to receive a monetary award, including a claimant under the Maryland Workers’ Compensation Act. “Maximum lien amount” is the maximum amount of a net recovery that is subject to execution for child support arrears under specified provisions of the Courts and Judicial Proceedings Article. “Net recovery” means the sum of money to be distributed to an award recipient after deduction of attorneys’ fees and expenses, medical bills, and the satisfaction of any liens or subrogation claims arising out of the sickness, accident, injury, or death that resulted in the monetary award, including those arising under specified provisions. “Paying agent” means the person responsible for distribution of the monetary award, including (1) the award recipient’s attorney, as specified or (2) if the award recipient was not represented by an attorney, the employer, property and casualty insurer, or self-insurer who is to pay the monetary award to the award recipient.

Responsibilities of a Paying Agent and the Workers’ Compensation Commission

Before a paying agent may distribute funds to an award recipient, the award recipient must provide specified information, including written documentation from CSA that indicates the amount of the award recipient’s arrears or that no arrears are owed. A paying agent may also use the services of an approved private judgment search company in lieu of receiving the information from the award recipient.

If the award recipient owes arrears, the paying agent must (1) withhold the lesser of the amount of the arrears or the maximum lien amount and promptly forward the withheld amount to CSA to be applied to the award recipient’s arrears; (2) promptly pay any remaining portion of the net recovery not subject to other liens to the award recipient; and (3) send a notice to CSA and the award recipient of the amount paid to CSA and the award recipient’s right to challenge the withholding. The paying agent may not charge CSA a fee for these actions. The award recipient’s exercise of the right to challenge the withholding does not relieve the paying agent of the duty to forward payment to CSA. The bill’s provisions may not provide a basis for a paying agent to delay the payment of the remaining portion of the net recovery.

The bill sets forth a similar process applicable to the Workers’ Compensation Commission (WCC) regarding lump sum settlements or awards to individuals who make a claim under the Maryland Workers’ Compensation Act.

Responsibilities of CSA

On receipt of the funds from the paying agent, CSA must apply the funds to the award recipient’s arrears. If the award recipient has more than one support case with arrears, CSA

must allocate the amount received among the cases, as determined to be appropriate. If the amount received exceeds the amount of arrears, CSA must pay the excess amount to the award recipient.

CSA must, under specified circumstances, provide notice to an obligor who is in arrears in making child support payments that continued arrearage may result in placement of a lien against a monetary award.

Investigations and Appeals

An award recipient may file a written request that CSA investigate the withholding. The request may be based solely on one of the following factors: (1) there is no arrearage; (2) the amount of the arrearage is incorrect; or (3) the award recipient is not the individual who owes the arrears. A request for investigation must be received by CSA within 30 days after the intercept date. If a timely request is not received, CSA may apply the funds to the award recipient's arrears.

If a request is received, CSA must conduct an investigation and take appropriate action based on the outcome, as specified. On completion of the investigation, CSA must also send notice of the outcome to the award recipient. The notice must inform the award recipient of the right to appeal CSA's decision to the Office of Administrative Hearings (OAH) within 30 days after the date of the notice. The factors on which an appeal may be based are the same as those regarding the right to request an investigation. CSA must take specified actions based on the findings of OAH.

Miscellaneous Provisions

The procedures established by the bill may be used exclusively for the purpose of collecting delinquent child support and may not be construed to prohibit CSA from collecting such support in any other manner authorized by law. A paying agent who, in good faith, makes a distribution to CSA in accordance with the bill's provisions is immune from any civil, criminal, or administrative penalties for making an erroneous distribution. The bill's provisions do not apply to any monetary award due to an award recipient who is younger than age 12.

Current Law/Background: The State operates several programs to collect delinquent child support, including the interception of tax refunds, lottery prizes, and vendor payments. Although statutory provisions authorize 25% of the net recovery by the debtor on a claim for personal injury to be subject to execution on a judgment for a child support arrearage, DHS advises that the intercept provisions within the bill are intended to streamline this process and assist in the collection of unpaid child support.

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 children of the obligor. As a result, TCA child support collections are distributed 50% to the State and 50% to the federal government. Accordingly, special fund revenues increase to the extent that additional funds are intercepted from child support obligors. Any such impact cannot be quantified due to the unavailability of data, but is not anticipated to materially impact State finances.

Federal fund revenues increase correspondingly with federal fund expenditures, as discussed below.

State Expenditures: General and federal fund expenditures increase by \$218,905 (\$83,394 in general funds and \$135,511 in federal funds) in fiscal 2020, which accounts for the bill's October 1, 2019 effective date, and by \$217,360 annually thereafter. This estimate reflects one-time programming costs for DHS (\$42,300) and the Judiciary (\$13,585), as well as ongoing costs for DHS to contract with a vendor to match child support obligors and intercepted monetary awards.

Otherwise, the bill does not materially affect the workload or finances of DHS or the Judiciary and does not materially affect WCC. OAH advises that it anticipates being able to handle any additional cases using existing budgeted resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Human Services; Office of Administrative Hearings; Workers' Compensation Commission; Department of Legislative Services

Fiscal Note History: First Reader - January 18, 2019
mm/jc

Analysis by: Jennifer K. Botts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: **Child Support – Lien Against Monetary Award**

BILL NUMBER: SB 23

PREPARED BY: Maryland Department of Human Services

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

 WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS