

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 71

(Senator Brooks)

Judicial Proceedings

Judiciary

Execution on a Judgment - Child Support Arrearages - Workers' Compensation

This bill specifies that 25% of the net recovery by a debtor on a claim for workers' compensation indemnity benefits is subject to execution on a judgment for a child support arrearage, including any weekly benefits or settlement proceeds payable to the debtor. The bill also specifies that for the purpose of executing on a judgment for a child support arrearage under § 11-504 of the Courts and Judicial Proceedings Article, "net recovery" means the sum of money to be distributed to a debtor after deduction of attorney's fees, expenses, medical bills, and satisfaction of any liens or subrogation claims arising out of the claims for personal injury, including those arising under a workers' compensation insurance plan.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances or operations.

Local Effect: The bill is not anticipated to materially affect local finances or operations.

Small Business Effect: Minimal.

Analysis

Current Law: Under § 11-504 of the Courts and Judicial Proceedings Article, 25% of the net recovery by a debtor on a claim for personal injury is subject to execution on a judgment for a child support arrearage. The bill does not alter this provision.

Labor and Employment Article (Workers' Compensation Act)

Section 9-732 of the Labor and Employment Article states that except as provided in Title 10 of the Family Law Article, before the issuance and delivery of a check or draft for any money payable under the Workers' Compensation Act, the money may not be assigned, charged, or taken in attachment or execution.

Family Law Article

Title 10 of the Family Law Article establishes the Child Support Administration, along with mechanisms for enforcing child support liens in circuit court to collect overdue child support payments. The Maryland Rules also permit the garnishment of property to enforce a child support lien.

“Earnings” for the purpose of an earnings withholding notice or order for child support arrearages, includes workers' compensation benefits (Title 10, Subtitle 1 of the Family Law Article), and in determining “actual income” for the purpose of computing the amount of child support owed, workers' compensation benefits are included. (Title 12, Subtitle 2 of the Family Law Article).

In *R.K. Grounds Care v. Wilson*, 235 Md. App. 20, 27-29 (2017), the parties' dispute concerned whether workers' compensation money may be garnished to pay child support arrearages. The Court of Special Appeals (now the Appellate Court of Maryland) noted the “interrelated” provisions, described above, from the Courts and Judicial Proceedings Article, the Labor and Employment Article, and the Family Law Article, but ultimately did not decide the issue because it held that there was no subject matter jurisdiction over the particular dispute in question (the argument had been raised originally before the Workers' Compensation Commission, which does not have jurisdiction to decide garnishment questions, rather than in the circuit court, which has jurisdiction over garnishment proceedings).

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See HB 650 of 2022.

Designated Cross File: HB 800 (Delegate Phillips, *et al.*) - Judiciary.

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

Fiscal Note History: First Reader - January 23, 2023
rh/jkb Third Reader - March 18, 2023
Revised - Amendment(s) - March 18, 2023

Analysis by: Joanne E. Tetlow

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