

SB71 Randall final.pdf

Uploaded by: Albert Randall

Position: FAV

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TESTIMONY IN SUPPORT OF SB71
Execution on a Judgment – Child Support Arrearage- Workers’ Compensation

Judicial Proceedings Committee
January 25, 2023

Chair Smith, Vice-Chair Waldstreicher, and Members of the Committee,

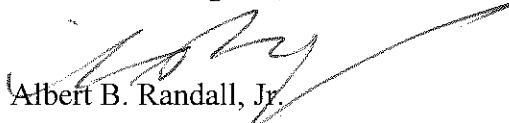
Thank you for the opportunity to testify before you on SB71, Execution on a Judgment – Child Support Arrearage – Workers’ Compensation. This bill clarifies the impact of child support orders on workers’ compensation entitlements. Under the current statutory authority, no explicit definition exists as to whether workers’ compensation indemnity benefits may be attached by child support orders, and, if so, whether or not a cap applies to limit excessive withholdings. As such, injured workers, child support recipients, child support enforcement authorities and workers’ compensation claims personnel are left to interpret the existing ambiguous law which leads to inconsistent results.

As a practitioner who litigates workers’ compensation claims on behalf of Maryland employers and their insurers, like many of my colleagues, I’ve often been caught in the middle of differing opinions offered by Claimants’ attorneys and child support enforcement authorities. This results in a legal quagmire with threats of litigation and penalties for non-compliance from both Claimants’ attorneys and enforcement authorities with no easy solution. These disputes create additional litigation, legal expense, and result in judicial inefficiency.

This bill solves that issue by clarifying once and for all the types, and amounts, of benefits that may be withheld for child support. This bill favorably amends the existing statute so that workers’ compensation entitlements are treated with other analogous personal injury recoveries and is consistent with existing state and federal law. This rather simple modification to existing law will relieve stakeholders by providing greater clarity and certainty when considering the impact of child support orders on workers’ compensation entitlements.

For these reasons, I am requesting a favorable report.

With kindest regards,


Albert B. Randall, Jr.

Brooks_SB71.pdf

Uploaded by: Benjamin Brooks

Position: FAV

BENJAMIN BROOKS
Legislative District 10
Baltimore County

Education, Energy, and the
Environment Committee



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TESTIMONY IN SUPPORT OF SB71
Execution on a Judgment – Child Support Arrearage- Workers’ Compensation

Judicial Proceedings Committee
January 25, 2023

Chair Smith, Vice-Chair Waldstreicher and Members of the Committee,

Thank you for the opportunity to testify before you on SB71, Execution on a Judgment-Child Support Arrearage- Workers’ Compensation. The purpose of this bill is to specify that 25% of the net recovery on a claim for workers’ compensation is subject to execution on a judgment for child support arrearage.

Current law does not explicitly state what, if any, indemnity benefits can be attached when a child support order is in place. SB71 merely offers clarity in an otherwise ambiguous statute in determining which workers’ compensation indemnity benefits can be garnished.

This clarification is in the interest of judicial economy and otherwise aligns workers compensation recoveries with personal injury recoveries.

For these reasons, I am requesting a favorable report.

With kindest regards,

A handwritten signature in cursive script that reads "Benjamin T. Brooks".

Benjamin Brooks

SB71 - CEIC Testimony in Support FINAL.pdf

Uploaded by: Caitlin McDonough

Position: FAV



Senate Judicial Proceedings Committee
January 25, 2023

Testimony of Chesapeake Employers' Insurance Company
and Injured Workers' Insurance Fund in Support of Senate Bill 71
Execution on a Judgement – Child Support Arrearage – Workers'
Compensation

On behalf of Chesapeake Employers' Insurance Company (CEIC) and the Injured Workers' Insurance Fund (IWIF), we share our updated position on Senate Bill 71 as introduced by Senator Ben Brooks. HB 71 reflects compromise language adopted and passed by the House Judiciary Committee, full House of Delegates, and this Senate Judicial Proceedings Committee in the 2022 Legislative Session, by nearly unanimous margins. As it now stands HB 71 properly takes into consideration both settlements and stipulations, which make up a significant portion of paid workers' compensation benefits in the State.

The legislation applies to the full range of paid benefits and CEIC's concerns from previous years have been fully addressed and we are happy to join Senator Brooks in supporting HB 71 this year and urge the Committee's favorable report.

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SB 71_FJLSC_fav.pdf

Uploaded by: Lindsay Parvis

Position: FAV

To: Members of Senate Judicial Proceedings Committee

From: Family & Juvenile Law Section Council (FJLSC)

Date: January 25, 2023

Subject: **Senate Bill 71:**
Execution on a Judgment – Child Support Arrearages – Workers’ Compensation

Position: **FAVORABLE**

The Maryland State Bar Association’s (MSBA) FJLSC **supports Senate Bill 71 – Execution on a Judgment – Child Support Arrearages – Workers’ Compensation.**

The FJLSC is the formal representative of the Family and Juvenile Law Section of the MSBA, which promotes the objectives of the MSBA by improving the administration of justice in the field of family and juvenile law and, at the same time, tries to bring together the members of the MSBA who are concerned with family and juvenile laws and in reforms and improvements in such laws through legislation or otherwise. The FJLSC is charged with the general supervision and control of the affairs of the Section and authorized to act for the Section in any way in which the Section itself could act. The Section has over 1,200 attorney members.

SB 71 creates clarity and consistency in the law about collection of child support from workers’ compensation awards. Consistency in child support is a cornerstone of Maryland law and mandated by federal law. Instead of ambiguity in the law forcing parents into contested litigation, which is costly and its results inconsistent, SB 71’s clarity and consistency is needed and will benefit families and children, who are the beneficiaries of child support.

For the reason(s) stated above, the MSBA FJLSC **supports Senate Bill 71 and urges a favorable committee report.**

Should you have any questions, please contact Michelle Smith at 410-710-1700 or msmith@lawannapolis.com or Lindsay Parvis at 240-399-7900 or lparvis@jgllaw.com.

SB0071_DHS_FAV.pdf

Uploaded by: Rachel Sledge

Position: FAV

Date: January 25, 2023

Bill number: SB0071

Committee: Senate Judicial Proceedings Committee

Bill title: Execution on Judgment - Child Support Arrearage - Workers' Compensation

DHS Position: FAVORABLE

The Maryland Department of Human Services (DHS) thanks the Committee for the opportunity to provide written support for Senate Bill 71 (SB 71).

The Department of Human Services (the Department) respectfully offers this letter of support for Senate Bill 71 (SB 71). This legislation specifies that 25% of the net recovery by the debtor on a claim for workers' compensation is subject to execution on a judgment for a child support arrearage.

As currently drafted, Senate Bill 71 amends § 11-504 of the Courts and Judicial Proceedings Article to authorize the Child Support Agency (CSA) to execute a judgment on a claim for personal injury and workers' compensation insurance plans. The statute would allow the Child Support Administration to enhance the authority of Child Support Administration to collect arrears for Maryland's children and families through workers' compensation claims.

Passage of Senate Bill 71 would establish that "twenty-five percent of the net recovery" by a debtor is subject to execution on a judgment for child support arrearage on a claim for personal injury with the Workers' Compensation Commission. This bill would clarify an existing ambiguity in Family Law for the Child Support Administration to use this collection source for payment of child support arrearages from noncustodial parents who are awarded settlements from personal injury through workers' compensation claims.

The Department is grateful to offer our support for SB 71 and requests a favorable report.

MAJ SB71 FWA.pdf

Uploaded by: Tyler Bennett

Position: FWA



January 25, 2023
Senate Judicial Proceedings Committee
SENATE BILL 71

EXECUTION ON A JUDGMENT – CHILD SUPPORT ARREARAGES – WORKERS’ COMPENSATION

FAVORABLE WITH AMENDMENT

The Maryland Association for Justice (“MAJ”) hereby **SUPPORTS WITH AMENDMENTS** Senate Bill 71. Under current Maryland law, it is unsettled as to what percentage of the injured workers’ net recovery can be attached for the payment of a child support judgment on arrearages. Subsection 11-504(b)(2) of the Courts and Judicial Proceeding Article prohibits garnishment of *“money payable in the event of sickness, accident, injury, or death of any person, including compensation for loss of future earnings. This exemption includes but is not limited to money payable on account of . . . , compromises, insurance, benefits, compensation, and relief.”* Notwithstanding Section (b) of 11-504 which exempts “compensation” from garnishment, child support authorities routinely attempt to garnish a significant proportion or all of a worker’s compensation benefits, leaving claimants with little or no money to meet the costs of daily living. Circuit Courts asked to decide whether Subsection b exempts workers’ compensation benefits from child support garnishment have reached conflicting decisions – meaning child support either received 100% of its ask or nothing.

The MAJ **SUPPORTS** the change to explicitly state that up to 25% of the net recovery to an injured worker is subject to execution on a judgment for a child support arrearage. SB71 spares workers’ compensation lawyers, child support authorities and Maryland trial court an appellate judge the burden of having to litigate/appeal whether “compensation” under Subsection b of 11- 504 means “workers’ compensation.”

The MAJ requests that the proposed subparagraph (3) be removed as the language is both unnecessary and will lead to confusion.

The proposed Subparagraph (3) states:

(3) PARAGRAPH (2) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO LIMIT RECOVERY OTHERWISE ALLOWED UNDER THE FEDERAL CONSUMER CREDIT PROTECTION ACT.

This language is unnecessary as the Federal Consumer Credit Protection Act (“FCCPA”) provides that the “maximum allowable garnishment” for a worker’s disposable earning is 25% for any given week. 15 U.S. § 1973(a). The 25% recovery is for any general debt that is owed by

an individual. Since the FCCPA's rate is already 25%, there is no need to provide a reservation clause for the FCCPA.

The FCCPA language will also lead to confusion because the one exception to the up to 25% maximum amount of net wages that can be garnished under the FCCPA is for child support. The maximum garnishment of an individual's wages ("disposable earning") for child support is between 50-65%, depending on various household factors. 15 U.S. § 1973(b)(2). The confusion is that no workers' compensation payment are "wages" or "disposable earnings," even though they originate from a work-related injury. Because the 50-65% garnishment should not apply to any benefit paid under a workers' compensation claim, any reference to the FCCPA in the current Bill will cause individuals, workers' compensation insurers, and child support agencies to believe that more than 25% can be withheld from a workers' compensation benefit payment. If so believed, then the entire purpose of the bill – to detail that the maximum recovery is limited to 25% of the net recovery – is frustrated.