



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.