

## CHAPTER 81

AN ACT concerning child support judgments, supplementing Title 2A of the New Jersey Statutes, amending P.L.1981, c.471 and repealing P.L.1995, c.334.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.2A:17-56.23b Judgment for child support lien against net proceeds of settlement; priority.

1. a. A judgment for child support entered pursuant to P.L.1988, c.111 (C.2A:17-56.23a) and docketed with the Clerk of the Superior Court shall be a lien against the net proceeds of any settlement negotiated prior or subsequent to the filing of a lawsuit, civil judgment, civil arbitration award, inheritance or workers' compensation award. The lien shall have priority over all other levies and garnishments against the net proceeds of any settlement negotiated prior or subsequent to the filing of a lawsuit, civil judgment, civil arbitration award, inheritance or workers' compensation award unless otherwise provided by the Superior Court, Chancery Division, Family Part. The lien shall not have priority over levies to recover unpaid income taxes owed to the State. The lien shall stay the distribution of the net proceeds to the prevailing party or beneficiary until the child support judgment is satisfied.

As used in this act "net proceeds" means any amount of money, in excess of \$2,000, payable to the prevailing party or beneficiary after attorney fees, witness fees, court costs, fees for health care providers, payments to the Medicaid program under section 6 of P.L.1979, c.365 (C.30:4D-7.1), reimbursement to the Division of Employment Security in the Department of Labor, the employer or employer's insurance carrier for temporary disability benefits that may have been paid pending the outcome of a workers' compensation claim as provided by section 1 of P.L.1950, c.174 (C.34:15-57.1), reimbursement to an employer or the employer's workers' compensation insurance carrier as provided in R.S.34:15-40, and other costs related to the lawsuit, inheritance or settlement are deducted from the award, proceeds or estate; "prevailing party" or "beneficiary" shall not include a partnership, corporation, limited liability partnership, financial institution, government entity or minor child; and "agent" means an authorized representative of the prevailing party or beneficiary, a union representative, an executor or administrator of a decedent's estate, an arbitrator or any other person or entity if such person or entity is responsible for the distribution of net proceeds to a prevailing party or beneficiary.

b. Before distributing any net proceeds of a settlement, judgment, inheritance or award to the prevailing party or beneficiary:

(1) the prevailing party or beneficiary shall provide the attorney, insurance company or agent responsible for the final distribution of such funds with a certification that includes the prevailing party's or beneficiary's full name, mailing address, date of birth and Social Security number; and

(2) the attorney representing the prevailing party or beneficiary shall initiate a search of child support judgments, through a private judgment search company that maintains information on child support judgments, to determine if the prevailing party or beneficiary is a child support judgment debtor.

If the prevailing party or beneficiary is not represented by an attorney, the judgment search shall be initiated by the opposing attorney, insurance company or agent before the proceeds are distributed to the prevailing party or beneficiary. In the case of a workers' compensation action, the Administrative Office of the Courts shall, at least once every 60 days, transmit information on child support judgment debtors to the Division of Workers' Compensation in the Department of Labor. The information shall include the debtor's name, Social Security number, the amount of the child support judgment, the Probation Division case number and the Probation Division office to which the judgment is payable. The Division of Workers' Compensation shall match the data received on child support judgment debtors against the information it maintains for individuals who have filed workers' compensation claims with the division. When a match is identified, the Division of Workers' Compensation shall notify the appropriate judge of compensation of the child support judgment before the decision, award, determination, judgment or order approving the settlement is rendered. The judge of compensation shall incorporate in the decision, award, determination, judgment or order approving the settlement, an order requiring the employer or the employer's insurance carrier to contact the Probation Division to satisfy the child support judgment out of the net proceeds of the workers' compensation award, order or settlement before any such monies are paid to the employee. The Division of Workers'

Compensation shall be immune from any civil liability that may arise from any information provided by the division or any order issued by a judge of compensation relating to a child support judgment, in accordance with this section. In the case of judgments or settlements resulting from a labor arbitration involving employees of a school board or school district, a judgment search shall be initiated by the school board or district prior to the release of any net proceeds to the employees and only if there is an income withholding for child support active against the employee in the records of the school board or district. In the case of an inheritance, the executor or administrator of the decedent's estate shall initiate the judgment search. The judgment search company shall provide a certification to the attorney, insurance company, agent or party initiating the lawsuit identifying whether or not the prevailing party or beneficiary is a child support judgment debtor.

In the case of net proceeds that are to be paid through a structured settlement or other payment plan, the attorney, insurance company or agent shall be required to conduct the child support judgment search only at the time of settlement or prior to the distribution of the first payment under the plan. If a child support judgment is identified, the attorney, insurance company or agent shall provide the Probation Division with a copy of the structured settlement or payment plan within 30 days of identifying the child support judgment.

If there are no attorneys representing either party in a civil lawsuit, the party bringing the lawsuit shall initiate the judgment search and shall be required to file the certification with the court at least 10 working days prior to the trial or with the stipulation that the certification shall be filed at the time of the settlement or dismissal of the lawsuit.

For monies deposited with the court, no distribution of funds shall be made until the attorney, prevailing party or beneficiary provides the Clerk of the Superior Court with a copy of the certification showing that the prevailing party or beneficiary is not a child support judgment debtor.

The fee for a judgment search which is required by this section shall not exceed \$10 for each name of a child support judgment debtor that is searched. The fee for a judgment search is chargeable against the net proceeds as a cost of the settlement, judgment, inheritance or award.

c. If the certification shows that the prevailing party or beneficiary is not a child support judgment debtor, the net proceeds may be paid to the prevailing party or beneficiary immediately. If the certification shows that the prevailing party or beneficiary is a child support judgment debtor, the attorney, insurance company or agent that initiated the search shall contact the Probation Division of the Superior Court to arrange for the satisfaction of the child support judgment. The attorney, insurance company or agent shall notify the prevailing party or beneficiary of the intent to satisfy the child support judgment prior to the disbursement of any funds to the prevailing party or beneficiary. Upon receipt of a warrant of satisfaction for the child support judgment, the attorney, insurance company or agent shall pay the balance of the settlement, judgment, award or inheritance to the prevailing party or beneficiary. If the net proceeds are less than the amount of the child support judgment, the entire amount of the net proceeds shall be paid to the Probation Division as partial satisfaction of the judgment.

If there are no attorneys representing either party in a civil lawsuit and the certification filed with the court shows that the prevailing party or beneficiary is a child support judgment debtor, the court shall order that the opposing party pay the amount of the child support judgment to the Probation Division before any funds are paid to the prevailing party or beneficiary. The court shall also insure that any judgment related to the lawsuit docketed with the Clerk of the Superior Court reflect the Probation Division's superior claim to such funds.

d. An attorney, insurance company or agent shall not be liable for distributing net proceeds to the prevailing party or beneficiary based on the results of a judgment certification showing the prevailing party or beneficiary is not the debtor of a child support judgment, if it is later shown that the prevailing party or beneficiary provided inaccurate personal information on the initial certification to the attorney, the insurer or agent.

e. An attorney, insurance company or agent who, in accordance with this act, satisfies a child support judgment from the net proceeds of a settlement, judgment, inheritance or award, shall not be liable for payments which otherwise would have been made pursuant to subsection a. of this section which were not so identified to the attorney, insurance company or agent at the

time of satisfaction.

f. An attorney, insurance company or agent who, in accordance with this act, satisfies a child support judgment from the net proceeds of a settlement, judgment, inheritance or award, shall not be liable to the prevailing party or beneficiary or to that party's creditors.

g. An attorney shall not be required to challenge a child support judgment unless retained by the prevailing party or beneficiary to do so.

h. A private judgment search company is prohibited from using any information provided by an attorney, insurance company or agent in accordance with this act for any purpose other than: (1) determining if the prevailing party or beneficiary is the debtor of a child support judgment; and (2) preparing a certification as required pursuant to subsection b. of this section.

i. To the extent feasible and permitted by the Rules of Court, the Administrative Office of the Courts may share information on a child support judgment debtor with an insurance carrier for the sole purpose of complying with the provisions of P.L.2000, c.81 (C.2A:17-56.23b et al.).

2. Section 5 of P.L.1981, c.471 (C.2A:17-56.11) is amended to read as follows:

C.2A:17-56.11 Notice to payor; binding effect.

5. a. An income withholding made under P.L.1981, c.417 (C.2A:17-56.8 et seq.) and provisions for health care coverage shall be binding upon the payor and successor payors immediately after service upon the payor by the Probation Division of a copy of the income withholding and an order for the provision of health care coverage, by regular mail. The payor is to pay the withheld amount to the Probation Division at the same time the obligor is paid. The payor shall implement withholding and the provisions for health care coverage no later than the first pay period that ends immediately after the date the notice was postmarked, except that the payor is not required to alter regular pay cycles to comply with the withholding. For each payment, other than payment received from the unemployment compensation fund, the payor may receive \$1.00, which shall be deducted from the obligor's income in addition to the amount of the support order to compensate the payor for the administrative expense of processing the withholding.

Notice to the payor shall include, but not be limited to, instructions for the provisions for health care coverage, the amount to be withheld from the obligor's income and a statement that the total amount withheld for support and other purposes may not be in excess of the maximum amount permitted under section 303 (b) of the federal Consumer Credit Protection Act (15 U.S.C.s.1673 (b)); that the payor shall send the amount to the Probation Division at the same time the obligor is paid, unless the Probation Division directs that payment be made to another individual or entity; that the payor may deduct and retain a fee of \$1.00 in addition to the amount of the support order except when the payment is received from the unemployment compensation fund; that withholding is binding on the payor until further notice by the Probation Division; that, in accordance with section 6 of P.L.1981, c.417 (C.2A:17-56.12), the payor is subject to a fine and civil damages as determined by the court for discharging an obligor from employment, refusing to employ, or taking disciplinary action against an obligor subject to an income withholding because of the withholding or any obligation which it imposes upon the payor; that the payor is subject to a fine as determined by the court for failure to withhold support from the obligor's income or pay the withheld amount to the Probation Division; that if the payor fails to take appropriate action with regard to the provisions for health care coverage or withhold wages in accordance with the provisions of the notice, the payor is liable for any medical expenses incurred by the children subject to the provisions for health care coverage and any amount up to the accumulated amount the payor should have withheld from the obligor's income; that the withholding shall have priority over any other legal process under State law against the same income; that the payor may combine withheld amounts from the obligor's income in a single payment to the Probation Division and separately identify the portion of the single payment which is attributable to each obligor unless submitted pursuant to section 7 of P.L.1981, c.417 (C.2A:17-56.13) or through electronic funds transfer; that if there is more than one support order for withholding against a single obligor, the payor shall withhold the payments on a pro rata basis to fully comply with the support orders, to the extent that the total amount withheld

does not exceed the limits imposed under section 303 (b) of the federal Consumer Credit Protection Act (15 U.S.C.s.1673 (b)); that the payor shall implement withholding no later than the first pay period that ends immediately after the date the notice was postmarked, except that the payor is not required to alter regular pay cycles to comply with the withholding; and that the payor shall notify the Probation Division promptly upon the termination of the obligor's employment benefits and provide the obligor's last known address and the name and address of the obligor's new payor, if known.

A payor served with an income withholding notice shall be liable to the obligee for failure to deduct the amounts specified. The obligee or the Probation Division may commence a proceeding against the payor for accrued deductions, together with interest and reasonable attorney's fees.

In accordance with section 314 of Pub.L.104-193, a payor who complies with an income withholding notice that is regular on its face shall be immune from civil liability for conduct in compliance with the notice.

b. When a payor receives an income withholding notice issued by another state, the payor shall apply the income withholding law of the state in which the obligor's principal place of employment is located in determining:

- (1) the payor's fee for processing the income withholding;
  - (2) the maximum amount permitted to be withheld from the obligor's income;
  - (3) the time periods within which the payor must implement the income withholding order and forward the child support payment;
  - (4) the priorities for withholding and allocating income withheld for multiple obligees;
- and
- (5) any withholding terms or conditions not specified in the support order or notice.

c. If an obligor is injured and eligible for workers' compensation under chapter 15 of Title 34 of the Revised Statutes or other disability benefits, the payor shall forward a copy of the income withholding to the insurance carrier at the same time an obligor's claim for workers' compensation is submitted to the Division of Workers' Compensation in the Department of Labor. The income withholding shall be binding upon the insurance carrier and the insurance carrier shall implement the income withholding pursuant to the provisions of this section.

3. The Supreme Court may adopt Rules of Court appropriate or necessary to effectuate the purposes of this act.

Repealer.

4. P.L.1995, c.334 (C.2A:17-56.37 et seq.) is repealed.

5. This act shall take effect immediately.

Approved August 14, 2000.