

2A:17-56.23b

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2000 **CHAPTER:** 81

NJSA: 2A:17-56.23b (Liens to pay for child support judgments)

BILL NO: S220 (Substituted for A1135)

SPONSOR(S): Bryant and Gormley

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** ----

SENATE: Womens Issues, Children and Family Services

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** May 25, 2000

SENATE: March 27, 2000

DATE OF APPROVAL: August 14, 2000

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Senate committee substitute enacted)

S220

SPONSORS STATEMENT: (Begins on page 5 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

A1135

SPONSORS STATEMENT: (Begins on page 4 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

FINAL VERSION (first reprint) Yes

VETO MESSAGE: No

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SENATE, No. 220

STATE OF NEW JERSEY 209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

Senator WILLIAM L. GORMLEY

District 2 (Atlantic)

SYNOPSIS

Provides for the establishment of liens on net proceeds of settlements, judgements or awards to pay for child support judgements.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concernin g child support judgements, supplementing Title
2 2A of the New Jersey Statutes and repealing P.L.1995, c.334.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. A judgment for child support entered pursuant to P.L.1988,
8 c.111 (C.2A:17-56.23a) and docketed with the Clerk of the Superior
9 Court shall be a lien against the net proceeds of any settlement
10 negotiated prior or subsequent to the filing of a lawsuit, civil
11 judgment, civil arbitration award, inheritance or workers'
12 compensation award. The lien shall have priority over all other levies
13 and garnishments against the net proceeds of any settlement
14 negotiated prior or subsequent to the filing of a lawsuit, civil
15 judgment, civil arbitration award, inheritance or workers'
16 compensation award unless otherwise provided by the court. The lien
17 shall not have priority over levies to recover unpaid income taxes
18 owed to the State. The lien shall stay the distribution of the net
19 proceeds to the prevailing party or beneficiary until the child support
20 judgment is satisfied. As used in this act "net proceeds" means any
21 amount of money, in excess of \$2,000, payable to the prevailing party
22 or beneficiary after attorney fees, witness fees, court costs, fees for
23 health care providers, payments to the State Medicaid program under
24 section 6 of P.L.1979, c.365 (C.30:4D-7.1), reimbursement to
25 employers or workers' compensation insurance carriers as provided in
26 R.S.34:15-40, and other costs related to the lawsuit, inheritance or
27 settlement are deducted from the award, proceeds or estate;
28 "prevailing party" or "beneficiary" shall not include a partnership,
29 corporation, limited liability partnership, financial institution,
30 government entity or minor child; and "agent" means an authorized
31 representative of the prevailing party or beneficiary, a union
32 representative, an executor or administrator of a decedent's estate, or
33 an arbitrator if such person or entity is responsible for the distribution
34 of net proceeds to a prevailing party or beneficiary.

35 b. Before distributing any net proceeds of a settlement,
36 judgment, inheritance, or award to the prevailing party or beneficiary:
37 (1) the prevailing party or beneficiary shall provide the attorney,
38 insurance company or agent responsible for the final distribution of
39 such funds with a certification that includes the prevailing party's or
40 beneficiary's full name, mailing address, date of birth and social
41 security number; and (2) the attorney representing the prevailing party
42 or beneficiary shall initiate a search of child support judgments,
43 through a private judgment search company that maintains information
44 on child support judgments, to determine if the prevailing party or
45 beneficiary is a child support judgment debtor. If the prevailing party
46 or beneficiary is not represented by an attorney, the judgment search

1 shall be initiated by the opposing attorney, insurance company or agent
2 before the proceeds are distributed to the prevailing party or
3 beneficiary. In a workers' compensation action, the insurance
4 company or employer shall initiate the judgment search if the
5 prevailing party has no attorney. In the case of an inheritance, the
6 executor or administrator of the decedent's estate shall initiate the
7 judgment search. The judgment search company shall provide a
8 certification to the attorney, insurance company, agent, or party
9 initiating the lawsuit identifying whether or not the prevailing party or
10 beneficiary is a child support judgment debtor.

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

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

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

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

34 c. If the certification shows that the prevailing party or beneficiary
35 is not a child support judgment debtor, the net proceeds may be paid
36 to the prevailing party or beneficiary immediately. If the certification
37 shows that the prevailing party or beneficiary is a child support
38 judgment debtor, the attorney, insurance company or agent that
39 initiated the search shall contact the Probation Division of the Superior
40 Court to arrange for the satisfaction of the child support judgment.
41 The attorney, insurance company or agent shall notify the prevailing
42 party or beneficiary of the intent to satisfy the child support judgment
43 prior to the disbursement of any funds to the prevailing party or
44 beneficiary. Upon receipt of a Warrant of Satisfaction for the child
45 support judgment, the attorney, insurance company or agent shall pay
46 the balance of the settlement, judgment, award or inheritance to the

1 prevailing party or beneficiary. If the net proceeds are less than the
2 amount of the child support judgment, the entire amount of the net
3 proceeds shall be paid to the Probation Division as partial satisfaction
4 of the judgment.

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

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

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

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

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

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

39
40 2. The Supreme Court may promulgate rules to effectuate the
41 purposes of this act.

42
43 3. P.L.1995, c.334 (C.2A:17-56.37 et seq.) is repealed.

44
45 4. This act shall take effect immediately.

STATEMENT

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3 This bill requires that upon the resolution of a lawsuit, civil
4 judgment, arbitration award, inheritance or workers' compensation
5 case where a party is entitled to receive a settlement, judgment or
6 award, a lien be placed on the net proceeds payable to the prevailing
7 party or the beneficiary, if the party is found to be a child support
8 judgment debtor. The lien would have priority over all other levies
9 and garnishments, except for levies to recover unpaid State income
10 taxes, against the net proceeds from the legal actions defined in the
11 bill unless otherwise provided by the court.

12 Under the provisions of the bill, prior to the distribution of the net
13 proceeds of any award, judgment, inheritance or settlement to the
14 prevailing party or beneficiary, the prevailing party or beneficiary
15 would be required to provide the attorney, agent or insurance
16 company responsible for the final distribution of the funds with a
17 certification that includes the prevailing party's or beneficiary's name,
18 mailing address, date of birth and social security number. The bill
19 would require an attorney, insurance company or agent, or in the case
20 of a civil lawsuit where neither party is represented by an attorney, the
21 party bringing the lawsuit or the agent, to initiate a child support
22 judgment search using a private judgment search company. The search
23 would be used to determine whether or not the prevailing party or
24 beneficiary is a child support judgment debtor. In the case of an
25 inheritance, the executor or administrator of the decedent's estate shall
26 initiate the judgment search. In the case of net proceeds paid through
27 a structured settlement or other payment plan, the attorney or agent
28 would be required to conduct a child support judgment search only at
29 the time of the settlement or prior to the distribution of the first
30 payment under the payment plan. The private judgment search
31 company would provide the attorney, insurance company, agent or
32 party bringing the lawsuit with a certification of the results of the
33 search. In the case of a civil lawsuit, the party bringing the lawsuit
34 would be required to provide the court with a certification 10 working
35 days prior to the trial or at the time of the settlement or dismissal of
36 the lawsuit. In the case or a workers' compensation action, the
37 insurance company or employer shall initiate the judgment search prior
38 to distributing the net proceeds to the prevailing party.

39 The bill provides that a fee of not more than \$10 may be charged
40 for each name of a child support debtor that is searched.

41 If a child support judgment is not found, the net proceeds of the
42 settlement, judgment, inheritance or award would be distributed to the
43 prevailing party or beneficiary immediately. If a child support
44 judgment against the prevailing party or beneficiary is found, an
45 attorney, agent or insurance company would be required to contact
46 the Probation Division of the Superior Court and arrange for the

1 satisfaction of the judgment prior to the disbursement of any funds.
2 In the case of a civil lawsuit where there are no attorneys involved and
3 it is determined that the prevailing party is a child support judgment
4 debtor, the party bringing the lawsuit would be required to satisfy the
5 judgment with the Probation Division. In the case of a structured
6 settlement or other payment plan, the attorney or agent would be
7 required to provide the Probation Division with a copy of the
8 structured settlement or payment plan within 30 days of identifying the
9 child support judgment. The court would also ensure that any
10 judgment related to the lawsuit reflect the Probation Division's claim
11 to the funds.

12 The bill also limits the liability of an attorney, agent or insurance
13 company when satisfying a judgment from the net proceeds of a
14 settlement, judgment, inheritance or award. Also under the provisions
15 of the bill, an attorney would not be required to challenge a child
16 support judgment unless retained by the prevailing party or the
17 beneficiary to do so. The bill also prohibits a private judgment search
18 company from using any information provided by an attorney, an agent
19 or insurance company for purposes other than determining if the
20 prevailing party or beneficiary is the debtor of a child support
21 judgment; and preparing a certification as required pursuant to the
22 provisions of the bill.

23 The bill provides the Supreme Court with rule-making authority in
24 promulgating rules to effectuate the purposes of the bill.

25 Finally, the bill repeals P.L.1995 c.334 (C.2A:17-56.37 et seq.)
26 which provides for the withholding of awards in civil lawsuits to pay
27 past due child support amounts. The provisions of that law are
28 obviated by this bill.

29 The bill requires that the lien placed against the net proceeds of any
30 settlement must have priority over all other levies and garnishments
31 against the net proceeds from the legal actions defined in the bill
32 unless otherwise provided by the court.

33 The bill covers beneficiaries of an inheritance and provides that the
34 executor or administrator of the decedent's estate shall initiate a search
35 for child support judgments. The bill provides that the term
36 "beneficiary" does not include a limited liability partnership or a
37 financial institution.

38 The bill provides that reimbursement to employers or workers'
39 compensation insurance carriers and payments to the State Medicaid
40 program, shall be deducted from an award, proceeds or estate in
41 determining net proceeds. For net proceeds paid through a structured
42 settlement or other payment plan, the attorney or agent would be
43 required to conduct a child support judgment search only at the time
44 of the settlement or prior to the distribution of the first payment under
45 the payment plan. If a child support judgment is identified, the
46 attorney or agent would be required to provide the Probation Division

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- 1 with a copy of the structured settlement or payment plan within 30
- 2 days of identifying the child support judgment.

SENATE WOMEN'S ISSUES, CHILDREN AND FAMILY
SERVICES COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 220

STATE OF NEW JERSEY

DATED: MARCH 20, 2000

The Senate Women's Issues, Children and Family Services Committee reports favorably a Senate Committee Substitute for Senate Bill No. 220.

This committee substitute requires that upon the resolution of a lawsuit, civil judgment, arbitration award, inheritance or workers' compensation case where a party is entitled to receive a settlement, judgment or award, a lien be placed on the net proceeds payable to the prevailing party or the beneficiary, if the party is found to be a child support judgment debtor. The lien would have priority over all other levies and garnishments against the net proceeds from the legal actions defined in the substitute unless otherwise provided by the court. The lien would not have priority over levies to recover unpaid income taxes owed to the State. The lien would also stay the distribution of net proceeds to the prevailing party or beneficiary until the child support judgment is satisfied.

Under the provisions of the substitute, the term "net proceeds" would be defined as any amount of money, in excess of \$2,000, payable to the prevailing party or beneficiary. The following items would be deducted from an award, proceeds or estate in determining net proceeds: attorney fees, witness fees, court costs and fees for health care providers, payments to the State Medicaid program, 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 pending the outcome of the worker's compensation claim, reimbursement to the employer or the employer's workers' compensation insurance carrier and other costs related to the lawsuit, inheritance or settlement. The terms "prevailing party" or "beneficiary" would not include a limited liability partnership or a financial institution. In addition, the term "agent" would be defined as 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.

Under the provisions of the substitute, prior to the distribution of the net proceeds of any award, judgment, inheritance or settlement to the prevailing party or beneficiary, the prevailing party or beneficiary would be required to provide the attorney, insurance company or agent responsible for the final distribution of the funds with a certification that includes the prevailing party's or beneficiary's name, mailing address, date of birth and social security number. The substitute would require the attorney representing the prevailing party or beneficiary to initiate a child support judgment search using a private judgment search company. The search would be used to determine whether or not the prevailing party or beneficiary is a child support judgment debtor. If the prevailing party or beneficiary is not represented by an attorney, the search would be initiated by the opposing attorney, insurance company or agent.

The substitute provides that in the case of a workers' compensation action, the Administrative Office of the Courts (AOC) would be required to transmit, at least every 60 days, information on child support debtors to the Division of Worker's Compensation so that the division can match the information received on child support debtors with information it maintains for individuals who have filed workers' compensation claims. The judge of compensation shall in turn incorporate in the decision an order requiring the employer or employer's insurance carrier to contact the Probation Division to satisfy the child support judgment out of the net proceeds of the award.

The substitute also provides that in the case of settlements resulting from a labor arbitration involving employees of a school board or district, a judgment search would be initiated by the board or district, prior to the release of any net proceeds to the award 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 would initiate the judgment search.

The private judgment search company would provide the attorney, insurance company, agent or party bringing the lawsuit with a certification of the results of the search.

In the case of net proceeds paid through a structured settlement or other payment plan, the attorney, insurance company or agent would be required to conduct the judgment search only at the time of the settlement or prior to the distribution of the first payment under the payment plan. If a child support judgment is identified, the attorney or agent would be required to 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 would be required to initiate the search

and file a certification with the court at least 10 working days prior to the trial or at the time of the settlement or dismissal of the lawsuit.

The substitute provides that no distribution of funds would be made until the attorney, prevailing party or beneficiary provide 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. A fee of not more than \$10 for each name of a child support judgment debtor searched would be required. This fee would be chargeable against the net proceeds.

If a child support judgment is not found, the net proceeds of the settlement, judgment, inheritance or award may be distributed to the prevailing party or beneficiary immediately. If a child support judgment against the prevailing party or beneficiary is found, an attorney, agent or insurance company would be required to contact the Probation Division and arrange for the satisfaction of the judgment prior to the disbursement of any funds. In the case of a civil lawsuit where there are no attorneys involved and it is determined that the prevailing party or beneficiary is a child support judgment debtor, the court would order the opposing party to pay the child support judgment amount to the Probation Division. The court would also insure that any judgment related to the lawsuit reflect the Probation Division's superior claim to the funds.

The substitute limits the liability of an attorney, agent or insurance company when satisfying a judgment from the net proceeds of a settlement, judgment, inheritance or award. In addition, an attorney would not be required to challenge a child support judgment unless retained by the prevailing party or the beneficiary to do so. The substitute prohibits a private judgment search company from using any information provided by an attorney, agent or insurance company for purposes other than determining if the prevailing party or beneficiary is the debtor of a child support judgment.

The substitute also provides that to the extent feasible and permitted by court rule, the AOC would be able to share information on a child support judgment debtor with an insurance carrier for the sole purpose of complying with provisions of the substitute.

The substitute amends N.J.S.2A:17-56.11 with regard to income withholding to provide that if the obligor is injured and eligible for workers' compensation, the payor would 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. The income withholding would be binding upon the insurance carrier.

Under the provisions of the substitute, the Supreme Court may adopt Rules of Court appropriate and necessary to effectuate the purposes of the substitute.

The substitute repeals N.J.S.A.2A:17-56.37 et seq. which provides for the withholding of awards in civil lawsuits to pay past due child

support amounts. The provisions of that law would be obviated by the substitute.

This committee substitute is identical to Assembly Bill No. 1135 (1R)(Russo/Quigley) which the Assembly Senior Issues and Community Services Committee reported favorably on March 2, 2000.

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 220

STATE OF NEW JERSEY
209th LEGISLATURE

ADOPTED MARCH 20, 2000

Sponsored by:

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

Senator WILLIAM L. GORMLEY

District 2 (Atlantic)

Co-Sponsored by:

**Assemblyman Russo, Assemblywomen Quigley, Previte, Assemblymen
Greenwald, LeFevre and Conaway**

SYNOPSIS

Provides for the establishment of liens on net proceeds of settlements, judgments, inheritance or awards to pay for child support judgments.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Women's Issues, Children and Family Services Committee.



(Sponsorship Updated As Of: 5/26/2000)

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

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) a. A judgment for child support entered
9 pursuant to P.L.1988, c.111 (C.2A:17-56.23a) and docketed with the
10 Clerk of the Superior Court shall be a lien against the net proceeds of
11 any settlement negotiated prior or subsequent to the filing of a lawsuit,
12 civil judgment, civil arbitration award, inheritance or worker's
13 compensation award. The lien shall have priority over all other levies
14 and garnishments against the net proceeds of any settlement negotiated
15 prior or subsequent to the filing of a lawsuit, civil judgment, civil
16 arbitration award, inheritance or workers' compensation award unless
17 otherwise provided by the Superior Court, Chancery Division, Family
18 Part. The lien shall not have priority over levies to recover unpaid
19 income taxes owed to the State. The lien shall stay the distribution of
20 the net proceeds to the prevailing party or beneficiary until the child
21 support judgment is satisfied.

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

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

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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

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

11 If the prevailing party or beneficiary is not represented by an
12 attorney, the judgment search shall be initiated by the opposing
13 attorney, insurance company or agent before the proceeds are
14 distributed to the prevailing party or beneficiary. In the case of a
15 workers' compensation action, the Administrative Office of the Courts
16 shall, at least once every 60 days, transmit information on child
17 support judgment debtors to the Division of Workers' Compensation
18 in the Department of Labor. The information shall include the debtor's
19 name, Social Security number, the amount of the child support
20 judgment, the Probation Division case number and the Probation
21 Division office to which the judgment is payable. The Division of
22 Workers' Compensation shall match the data received on child support
23 judgment debtors against the information it maintains for individuals
24 who have filed workers' compensation claims with the division. When
25 a match is identified, the Division of Workers' Compensation shall
26 notify the appropriate judge of compensation of the child support
27 judgment before the decision, award, determination, judgment or
28 order approving the settlement is rendered. The judge of
29 compensation shall incorporate in the decision, award, determination,
30 judgment or order approving the settlement, an order requiring the
31 employer or the employer's insurance carrier to contact the Probation
32 Division to satisfy the child support judgment out of the net proceeds
33 of the workers' compensation award, order or settlement before any
34 such monies are paid to the employee. The Division of Workers'
35 Compensation shall be immune from any civil liability that may arise
36 from any information provided by the division or any order issued by
37 a judge of compensation relating to a child support judgment, in
38 accordance with this section. In the case of judgments or settlements
39 resulting from a labor arbitration involving employees of a school
40 board or school district, a judgment search shall be initiated by the
41 school board or district prior to the release of any net proceeds to the
42 employees and only if there is an income withholding for child support
43 active against the employee in the records of the school board or
44 district. In the case of an inheritance, the executor or administrator of
45 the decedent's estate shall initiate the judgment search. The judgment
46 search company shall provide a certification to the attorney, insurance

1 company, agent or party initiating the lawsuit identifying whether or
2 not the prevailing party or beneficiary is a child support judgment
3 debtor.

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

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

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

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

28 c. If the certification shows that the prevailing party or beneficiary
29 is not a child support judgment debtor, the net proceeds may be paid
30 to the prevailing party or beneficiary immediately. If the certification
31 shows that the prevailing party or beneficiary is a child support
32 judgment debtor, the attorney, insurance company or agent that
33 initiated the search shall contact the Probation Division of the Superior
34 Court to arrange for the satisfaction of the child support judgment.
35 The attorney, insurance company or agent shall notify the prevailing
36 party or beneficiary of the intent to satisfy the child support judgment
37 prior to the disbursement of any funds to the prevailing party or
38 beneficiary. Upon receipt of a warrant of satisfaction for the child
39 support judgment, the attorney, insurance company or agent shall pay
40 the balance of the settlement, judgment, award or inheritance to the
41 prevailing party or beneficiary. If the net proceeds are less than the
42 amount of the child support judgment, the entire amount of the net
43 proceeds shall be paid to the Probation Division as partial satisfaction
44 of the judgment.

45 If there are no attorneys representing either party in a civil lawsuit
46 and the certification filed with the court shows that the prevailing

1 party or beneficiary is a child support judgment debtor, the court shall
2 order that the opposing party pay the amount of the child support
3 judgment to the Probation Division before any funds are paid to the
4 prevailing party or beneficiary. The court shall also insure that any
5 judgment related to the lawsuit docketed with the Clerk of the
6 Superior Court reflect the Probation Division's superior claim to such
7 funds.

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

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

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

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

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

34 i. To the extent feasible and permitted by the Rules of Court, the
35 Administrative Office of the Courts may share information on a child
36 support judgment debtor with an insurance carrier for the sole purpose
37 of complying with the provisions of P.L. , c. (C.)(pending
38 before the Legislature as this bill).

39
40 2. Section 5 of P.L.1981, c.471 (C.2A:17-56.11) is amended to
41 read as follows:

42 5. a. An income withholding made under P.L.1981, c.417
43 (C.2A:17-56.8 et seq.) and provisions for health care coverage shall
44 be binding upon the payor and successor payors immediately after
45 service upon the payor by the Probation Division of a copy of the
46 income withholding and an order for the provision of health care

1 coverage, by regular mail. The payor is to pay the withheld amount to
2 the Probation Division at the same time the obligor is paid. The payor
3 shall implement withholding and the provisions for health care
4 coverage no later than the first pay period that ends immediately after
5 the date the notice was postmarked, except that the payor is not
6 required to alter regular pay cycles to comply with the withholding.
7 For each payment, other than payment received from the
8 unemployment compensation fund, the payor may receive \$1.00, which
9 shall be deducted from the obligor's income in addition to the amount
10 of the support order to compensate the payor for the administrative
11 expense of processing the withholding.

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

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

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

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

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

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

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

40 (cf: P.L.1998, c.1, s.22)

41
42 3. The Supreme Court may adopt Rules of Court appropriate or
43 necessary to effectuate the purposes of this act.

44
45 4. P.L.1995, c.334 (C.2A:17-56.37 et seq.) is repealed.

46
47 5. This act shall take effect immediately.

§1
C.2A:17-56.23b
§3
Note to §§1, 2
§4
Repealer

P.L. 2000, CHAPTER 81, *approved August 14, 2000*
Senate Committee Substitute for
Senate, No. 220

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

4

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

7

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

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

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 authorized representative of the prevailing party or beneficiary, a
2 union representative, an executor or administrator of a decedent's
3 estate, an arbitrator or any other person or entity if such person or
4 entity is responsible for the distribution of net proceeds to a prevailing
5 party or beneficiary.

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

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

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

18 If the prevailing party or beneficiary is not represented by an
19 attorney, the judgment search shall be initiated by the opposing
20 attorney, insurance company or agent before the proceeds are
21 distributed to the prevailing party or beneficiary. In the case of a
22 workers' compensation action, the Administrative Office of the Courts
23 shall, at least once every 60 days, transmit information on child
24 support judgment debtors to the Division of Workers' Compensation
25 in the Department of Labor. The information shall include the debtor's
26 name, Social Security number, the amount of the child support
27 judgment, the Probation Division case number and the Probation
28 Division office to which the judgment is payable. The Division of
29 Workers' Compensation shall match the data received on child support
30 judgment debtors against the information it maintains for individuals
31 who have filed workers' compensation claims with the division. When
32 a match is identified, the Division of Workers' Compensation shall
33 notify the appropriate judge of compensation of the child support
34 judgment before the decision, award, determination, judgment or
35 order approving the settlement is rendered. The judge of
36 compensation shall incorporate in the decision, award, determination,
37 judgment or order approving the settlement, an order requiring the
38 employer or the employer's insurance carrier to contact the Probation
39 Division to satisfy the child support judgment out of the net proceeds
40 of the workers' compensation award, order or settlement before any
41 such monies are paid to the employee. The Division of Workers'
42 Compensation shall be immune from any civil liability that may arise
43 from any information provided by the division or any order issued by
44 a judge of compensation relating to a child support judgment, in
45 accordance with this section. In the case of judgments or settlements
46 resulting from a labor arbitration involving employees of a school

1 board or school district, a judgment search shall be initiated by the
2 school board or district prior to the release of any net proceeds to the
3 employees and only if there is an income withholding for child support
4 active against the employee in the records of the school board or
5 district. In the case of an inheritance, the executor or administrator of
6 the decedent's estate shall initiate the judgment search. The judgment
7 search company shall provide a certification to the attorney, insurance
8 company, agent or party initiating the lawsuit identifying whether or
9 not the prevailing party or beneficiary is a child support judgment
10 debtor.

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

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

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

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

35 c. If the certification shows that the prevailing party or beneficiary
36 is not a child support judgment debtor, the net proceeds may be paid
37 to the prevailing party or beneficiary immediately. If the certification
38 shows that the prevailing party or beneficiary is a child support
39 judgment debtor, the attorney, insurance company or agent that
40 initiated the search shall contact the Probation Division of the Superior
41 Court to arrange for the satisfaction of the child support judgment.
42 The attorney, insurance company or agent shall notify the prevailing
43 party or beneficiary of the intent to satisfy the child support judgment
44 prior to the disbursement of any funds to the prevailing party or
45 beneficiary. Upon receipt of a warrant of satisfaction for the child
46 support judgment, the attorney, insurance company or agent shall pay

1 the balance of the settlement, judgment, award or inheritance to the
2 prevailing party or beneficiary. If the net proceeds are less than the
3 amount of the child support judgment, the entire amount of the net
4 proceeds shall be paid to the Probation Division as partial satisfaction
5 of the judgment.

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

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

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

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

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

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

41 i. To the extent feasible and permitted by the Rules of Court, the
42 Administrative Office of the Courts may share information on a child
43 support judgment debtor with an insurance carrier for the sole purpose
44 of complying with the provisions of P.L. , c. (C.)(pending
45 before the Legislature as this bill).

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

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

19 Notice to the payor shall include, but not be limited to, instructions
20 for the provisions for health care coverage, the amount to be withheld
21 from the obligor's income and a statement that the total amount
22 withheld for support and other purposes may not be in excess of the
23 maximum amount permitted under section 303 (b) of the federal
24 Consumer Credit Protection Act (15 U.S.C.s.1673 (b)); that the payor
25 shall send the amount to the Probation Division at the same time the
26 obligor is paid, unless the Probation Division directs that payment be
27 made to another individual or entity; that the payor may deduct and
28 retain a fee of \$1.00 in addition to the amount of the support order
29 except when the payment is received from the unemployment
30 compensation fund; that withholding is binding on the payor until
31 further notice by the Probation Division; that, in accordance with
32 section 6 of P.L.1981, c.417 (C.2A:17-56.12), the payor is subject to
33 a fine and civil damages as determined by the court for discharging an
34 obligor from employment, refusing to employ, or taking disciplinary
35 action against an obligor subject to an income withholding because of
36 the withholding or any obligation which it imposes upon the payor;
37 that the payor is subject to a fine as determined by the court for failure
38 to withhold support from the obligor's income or pay the withheld
39 amount to the Probation Division; that if the payor fails to take
40 appropriate action with regard to the provisions for health care
41 coverage or withhold wages in accordance with the provisions of the
42 notice, the payor is liable for any medical expenses incurred by the
43 children subject to the provisions for health care coverage and any
44 amount up to the accumulated amount the payor should have withheld
45 from the obligor's income; that the withholding shall have priority over
46 any other legal process under State law against the same income; that
47 the payor may combine withheld amounts from the obligor's income in

1 a single payment to the Probation Division and separately identify the
2 portion of the single payment which is attributable to each obligor
3 unless submitted pursuant to section 7 of P.L.1981, c.417
4 (C.2A:17-56.13) or through electronic funds transfer; that if there is
5 more than one support order for withholding against a single obligor,
6 the payor shall withhold the payments on a pro rata basis to fully
7 comply with the support orders, to the extent that the total amount
8 withheld does not exceed the limits imposed under section 303 (b) of
9 the federal Consumer Credit Protection Act (15 U.S.C.s.1673 (b));
10 that the payor shall implement withholding no later than the first pay
11 period that ends immediately after the date the notice was postmarked,
12 except that the payor is not required to alter regular pay cycles to
13 comply with the withholding; and that the payor shall notify the
14 Probation Division promptly upon the termination of the obligor's
15 employment benefits and provide the obligor's last known address and
16 the name and address of the obligor's new payor, if known.

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

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

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

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

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

47 (cf: P.L.1998, c.1, s.22)

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

3

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

5

6 5. This act shall take effect immediately.

7

8

9

10

11 Provides for the establishment of liens on net proceeds of settlements,
12 judgments, inheritance or awards to pay for child support judgments.

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.

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TRENTON, NJ 08625

Office of the Governor
NEWS RELEASE

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RELEASE: August 14, 2000

Governor Whitman today signed the following pieces of legislation:

A-1436, sponsored by Assemblyman Richard A. Merkt (Morris) and Senator Robert J. Martin (R-Essex/Morris/Passaic), will allow permanently and totally disabled voters the option to receive absentee ballots for each election during a calendar year by filling out one application at the beginning of the year.

Current law requires disabled voters to apply for an absentee ballot in every election during the calendar year.

A-2270, sponsored by Assemblywoman Charlotte Vandervalk (R-Bergen) and Senator Jack Sinagra (R-Middlesex), clarifies enforcement authority of local health officers regarding the sale or distribution of tobacco products to minors. The bill states that a local health officer may issue a summons to a person who violates this prohibition. The municipality would retain penalties collected as a result of this enforcement.

S-717, sponsored by Senators C. Louis Bassano (Essex/Union) and Diane B. Allen (R-Burlington/Camden) and Assemblymembers Melvin Cottrell (R-Burlington/Monmouth/Ocean) and Joseph R. Malone, III. (R-Burlington/Monmouth/Ocean), renames the Governor's Council on the Prevention of Mental Retardation as the Governor's Council on the Prevention of Mental Retardation and Developmental Disabilities.

The bill also provides that an advocate for the mentally retarded and developmentally disabled shall be included among the Council's public members, and that the Council's 12-member Executive Committee shall include the Commissioner of Community Affairs as an ex-officio member and the Secretary of State as a non-voting, ex-officio member.

S-220, sponsored by Senators Wayne R. Bryant (D-Camden/Gloucester), William L. Gormley (R-Atlantic) and Assemblymembers David C. Russo (R-Bergen/Passaic) and Joan M. Quigley (D-Bergen/Hudson), provides that upon the resolution of a lawsuit, civil judgement, arbitration or workers' compensation case where a party is entitled to receive a settlement, judgement or award - a lien will be placed upon the net proceeds payable to the prevailing party if the party is found to owe child support. The fee shall have priority over all other levies and citations (unless a court orders otherwise) and except for levies to recover unpaid income taxes to the State.

The bill arose out of the concern that child support obligations may remain unsatisfied, while an obligor is in receipt of an influx of money from a lawsuit settlement, civil judgement, or other adjudicated means.

A-436, sponsored by Assembly Members Joel M. Weingarten (R-Essex/Union), Joseph Suliga (D-Union), Christopher "Kip" Bateman (R-Morris/ Somerset) and Guy R. Gregg (R-Sussex/Hunterdon/Morris) and Senators Anthony R. Bucco (R-Morris) and Walter J. Kavanaugh (R-Morris/ Somerset), requires insurers to provide certain notice concerning flood insurance.

This bill requires insurance companies that issue homeowners' insurance policies to provide existing and prospective policyholders with notice that a standard insurance policy does not cover property damaged by a flood. The Commissioner of Banking and Insurance may impose monetary penalties up to \$2,500 for the first violation and up to \$5,000 for any subsequent violation against any insurer that violates the bill's provisions.

A-622, sponsored by Assembly Members Carol J. Murphy (R-Essex/Morris/Passaic) and Alex DeCroce (R-Essex/Morris/Passaic), extends the period for a judge to issue a summons for illegally passing a school bus. Current law requires that a complaint for illegally passing 30 days of the offense. The new legislation would extend the time period to 90 days, thereby allowing more time for investigation to ensure that violators can be prosecuted. The bill also provides that any person who suppresses the identity of a driver who committed this offense would be subject to a fine of \$100.

Governor Whitman also today signed the following joint resolution:

SJR-13, sponsored by Senators John A. Lynch (D-Middlesex), Jack Sinagra (R-Middlesex) and Assemblyman Melvin Cottrell (R-Burlington/Monmouth/Ocean), designates December 12th of each year as "Foster Children's Day." The joint resolution is designed to recognize the unique needs and experiences of foster children and provide an opportunity for State and local government, private organizations and the general public to engage in charitable efforts to acknowledge that foster children are important and loved.