

2A:17-56.37

LEGISLATIVE HISTORY CHECKLIST
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(Past due child support)

NJSA: 2A:17-56.37

LAWS OF: 1995 CHAPTER: 334

BILL NO: S1869

SPONSOR(S): Bryant

DATE INTRODUCED: March 13, 1995

COMMITTEE: ASSEMBLY: ---

SENATE: Women's Issues

AMENDED DURING PASSAGE: Yes Amendments during passage
Second reprint enacted denoted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: November 9, 1995

SENATE: June 26, 1995

DATE OF APPROVAL: January 5, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: No

SENATE: Yes

FISCAL NOTE: Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBP:pp

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[SECOND REPRINT]

SENATE, No. 1869

STATE OF NEW JERSEY

INTRODUCED MARCH 13, 1995

By Senators BRYANT, PALAIA, Lipman, Bassano, Ewing,
Adler, Cafiero, Ciesla and Sacco

1 AN ACT concerning child support arrearages and supplementing
2 Title 2A of the New Jersey Statutes.

3

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

6 1. a. Upon resolution of any civil action where a party is
7 entitled to receive a monetary award or settlement, the court
8 shall:

9 (1) Require the submission of a certification which includes
10 the full name, address, Social Security number and date of birth
11 of the party entitled to receive the monetary award or
12 settlement, and

13 (2) Order that disbursement of any monies due to that person
14 not be made for 30 days ²after the submission of a
15 certification². As used in this act, "monies due to that person"
16 do not include monies for attorney fees, witness fees, court
17 costs ², fees for health care providers, payment of liens which
18 may be subject to the award, including but not limited to, taxes,
19 physician and mechanics' liens² and related items, which shall be
20 disbursed immediately.

21 b. During the 30-day period before monies may be disbursed to
22 the person entitled to receive the monetary award or settlement,
23 the probation department, in cooperation with the Clerk of the
24 Superior Court and the State IV-D agency, shall ascertain
25 whether the person is a child support obligor and, if so, whether
26 any child support amounts are currently in arrears. After
27 calculation of amounts owed for attorney fees, witness fees,
28 ²fees for health care providers, payment of liens which may be
29 subject to the award, including but not limited to, taxes,
30 physician and mechanics' liens,² court costs and related items,
31 any monies remaining out of the award or settlement which
32 represent child support arrearages owed by the person shall be
33 withheld from the award ¹or settlement¹ and forwarded to the
34 probation department for payment to the child support obligee.

35 ²c. An attorney may disburse monies due to that person for
36 purposes other than those specified in subsection a. of this
37 section, if notice that the litigant owes any child support
38 arreages is not received from the probation department and the
39 State IV-D agency within the 30-day period .

40 d. An attorney who has not received notice from the probation
41 department and the State IV-D agency and disburses monies due

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SWF committee amendments adopted March 20, 1995.

² Assembly floor amendments adopted June 29, 1995.

1 to that person after the 30-day period, for purposes other than
2 those specified in subsection a. of this section, shall be immune
3 from civil or criminal liability.

4 e. An attorney who withholds monies pending a determination
5 by the probation department and the State IV-D agency shall not
6 be liable for payments which otherwise would have been made
7 pursuant to subsection a. of this section which were not so
8 identified to the attorney.

9 f. An attorney who receives a written determination by the
10 probation department and the State IV-D agency within the
11 30-day period and as soon as practicable forwards the money to
12 the probation department and the State IV-D agency for payment
13 to the child support obligee, shall not be liable to the litigant or
14 to the litigant's creditors.

15 g. An attorney shall not be required to challenge a probation
16 department or State IV-D agency determination as to child
17 support arrearages unless retained by the litigant to do so.²

18 2. The Supreme Court may promulgate rules to effectuate the
19 purposes of this act, including, but not limited to, implementing
20 procedures for the exchange of information among the county
21 probation departments and the Clerk of the Superior Court to
22 identify child support obligors from among those parties entitled
23 to receive a monetary award or settlement in a civil action.

24 3. The Department of Human Services may promulgate rules
25 and directives to effectuate the purposes of this act.

26 4. This act shall take effect 120 days after enactment and
27 shall apply to all matters pending in the Superior Court on the
28 effective date.

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33 Provides for withholding awards in civil lawsuits to pay past due
34 child support amounts.

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STATE OF NEW JERSEY

INTRODUCED MARCH 13, 1995

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16 court costs and related items, which shall be disbursed
17 immediately.

18 b. During the 30-day period before monies may be disbursed to
19 the person entitled to receive the monetary award or settlement,
20 the probation department, in cooperation with the Clerk of the
21 Superior Court and the State IV-D agency, shall ascertain
22 whether the person is a child support obligor and, if so, whether
23 any child support amounts are currently in arrears. After
24 calculation of amounts owed for attorney fees, witness fees,
25 court costs and related items, any monies remaining out of the
26 award or settlement which represent child support arrearages
27 owed by the person shall be withheld from the award and
28 forwarded to the probation department for payment to the child
29 support obligee.

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31 purposes of this act, including, but not limited to, implementing
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40 effective date.

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STATEMENT

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44 This bill provides for withholding awards in civil lawsuits to pay
45 past due child support amounts. The bill applies to the resolution

1 of all civil actions where a party is entitled to receive a
2 monetary award or settlement.

3 The bill provides that any party entitled to receive a monetary
4 award or settlement would be required to submit a certification
5 containing his full name, address, Social Security number and
6 date of birth. The bill would require the probation department, in
7 cooperation with the Clerk of the Superior Court and the State
8 IV-D agency, to ascertain whether the person is a child support
9 obligor and whether arrearages are owed. Any monies owed
10 would be deducted from the award or settlement and forwarded
11 to the probation department.

12 The bill also provides that the Supreme Court may promulgate
13 rules to effectuate the purposes of the bill, including
14 implementing procedures for the exchange of information among
15 the county probation departments and the Clerk of the Superior
16 Court. The bill also provides rule-making authority to the
17 Department of Human Services.

18 The bill takes effect date would be 120 days after enactment
19 and would apply to all matters pending in the Superior Court on
20 the effective date.

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25 Provides for withholding awards in civil lawsuits to pay past due
26 child support amounts.

SENATE WOMEN'S ISSUES, CHILDREN
AND FAMILY SERVICES COMMITTEE

STATEMENT TO

SENATE, No. 1869

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 16, 1995

The Senate Women's Issues, Children and Family Services committee favorably reports Senate Bill No. 1869 with committee amendments.

As amended, the bill provides for withholding awards in civil lawsuits to pay past due child support amounts. The bill applies to the resolution of all civil actions where a party is entitled to receive a monetary award or settlement.

The bill provides that any party entitled to receive a monetary award or settlement would be required to submit a certification containing his full name, address, Social Security number and date of birth. The bill would require the probation department, in cooperation with the Clerk of the Superior Court and the State IV-D agency, to ascertain whether the person is a child support obligor and whether arrearages are owed. Any monies owed would be deducted from the award or settlement and forwarded to the probation department.

The bill also provides that the Supreme Court may promulgate rules to effectuate the purposes of the bill, including implementing procedures for the exchange of information among the county probation departments and the Clerk of the Superior Court. The bill also provides rule-making authority to the Department of Human Services.

The bill's effective date would be 120 days after enactment and would apply to all matters pending in the Superior Court on the effective date.

The committee amended subsection b. of section 1 of the bill to clarify that child support arrearages shall be withheld from monetary awards or settlements and forwarded to the county probation department for payment to the custodial parent.

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FISCAL NOTE TO

[FIRST REPRINT]

SENATE, No. 1869

STATE OF NEW JERSEY

DATED: June 15, 1995

Senate Bill No. 1869 (1R) of 1995 would add another method of collecting child support arrearages by providing that the monies would be withheld from civil lawsuit awards. The bill provides that, upon judgment or settlement of any civil action resulting in a monetary award to any party, there would be a 30-day waiting period before any actual disbursement to that person is made. During the waiting period, the court would be required to provide the county probation department and the State IV-D agency with the name and address of the person receiving the award and the amount of the award. These entities would then ascertain whether the person is a child support obligor and, if so, whether any support amounts are in arrears. Such arrearages would be withheld from the award and forwarded to the appropriate agency for payment to the child support obligee.

The Administrative Office of the Courts (AOC) states that the Federal government will reimburse the State for a portion of administrative expenses for this program under Title IV-D. These administrative expenses include one-time expenditures of \$67,500 for modifications to the Automated Child Support Enforcement System (ACSES) and \$7,500 for modifications to the Automated Case Management System (ACMS). The AOC states that the federal government will reimburse the State for 90 percent of the ACSES costs if the system is certified by the U.S. Department of Health and Human Services at the time the enhancements are requested. Otherwise, federal reimbursement will be limited to 66.34 percent. The net State cost for the ACSES modifications, after federal reimbursement, would be \$6,750 if the system is certified, or \$22,720 if it is not certified. Because non-ACSES system modifications are not subject to federal reimbursement, the State would be responsible for the entire \$7,500 ACMS enhancements.

In addition to data processing costs, other expenses include staff time to verify whether a civil lawsuit plaintiff is a child support obligor and mailing costs for the notices requiring payment of the child support from the civil award. The AOC was unable to estimate the cost of these activities.

The Department of Human Services (DHS) and the Office of Management and Budget (OMB) noted that DHS's added responsibilities under this bill could be performed by existing staff and that data processing costs would likely be paid from existing department data processing appropriations.

Both the AOC and DHS stated that there is no information currently available to estimate the amount of increase in child support collections and revenue generated by this bill, although funds will be provided through federal financial incentives as well as through State and county shares of Aid to Families with Dependent Children (AFDC) collections. OMB reported that

Massachusetts recently enacted similar legislation to be implemented in 1995 but representatives from Massachusetts were unable to estimate the anticipated impact.

The Office of Legislative Services concurs.

This fiscal note has been prepared pursuant to P.L.1980, c.67.

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OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

Contact: BECKY TAYLOR
JAYNE REBOVICH
777-2600

TRENTON, N.J. 08625

Release: 1/9/96

Gov. Whitman signed three bills that will facilitate the payment of child support by permitting the withholding of overdue sums from awards in civil lawsuits and lottery prizes over \$1000.

S-1054/A-1975 was sponsored by Senator John Ewing (R-Morris/Somerset), as well as Assemblymen Melvin Cottrell (R-Burlington/Monmouth/Ocean) and Joseph Malone (R-Burlington/Monmouth/Ocean). This legislation authorizes the spending of \$350,000 to establish an Alcohol and Drug Abuse Program for the Deaf, hard of Hearing and Disabled.

S-1869/A-235 was sponsored by Senators Wayne Bryant (D-Camden/Gloucester) and Joseph Palaia (R-Monmouth). It permits the Department of Human Services to withhold awards from civil lawsuits to pay past due child support amounts.

Under the new law, a person entitled to receive a monetary award or settlement will be required to submit a certification to the court during a 30-day period after the award or settlement is entered. After the submission of the certification, the Probation Division in the Administrative Office of the Courts (AOC) will ascertain whether the person receiving the award owes child support. Any child support money that is owed will be deducted from the award or settlement and forwarded to the county probation department for payment to the custodial parent.

The law takes effect in 120 days and will apply to all matters pending in the Superior Court on the effective date.

The Governor also signed, **S-1864/A-230**, which was sponsored by Senators Wayne Bryant (D-Camden/Gloucester), Joseph Palaia (R-Monmouth) and Assemblyman William Pascrell Jr. (D-Passaic), changes the existing law that permits the withholding of lottery prizes to satisfy child support arrears or public assistance overpayments by lowering the threshold at which funds may be withheld from \$2,500 to \$1,000.