

2A:17-56.1 et al

LEGISLATIVE HISTORY CHECKLIST

(Garnishment orders--30 day overdue-- enforcement and provide for transfer of execution orders)

NJSA 2A:17-56.1 et al.

LAWS 1981

CHAPTER 203

Bill No. A1668

Sponsor(s) Kalik and others

Date Introduced May 5, 1980

Committee: Assembly Judiciary, Law, Public Safety and Defense

Senate Judiciary

Amended during passage Yes according to Governor's recommendations:

~~No~~ Amendments denoted by asterisks

Date of Passage: Assembly June 12, 1980

Re-enacted 5-14-81

Senate Oct. 9, 1980

Re-enacted 6-15-81

Date of approval July 9, 1981

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~

Fiscal Note ~~Yes~~ No

Veto Message Yes ~~No~~

Message on signing ~~Yes~~ No

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

Recommendation for legislation in:

974.90 N.J. Supreme Court. Committee on M359 Matrimonial Litigation.

1981b Supreme Court Committee on Matrimonial Litigation: phase two. Final report. Newark, 1981. (p.11)

See also: newspaper clipping (attached)

6/22/81

[THIRD OFFICIAL COPY REPRINT]

ASSEMBLY, No. 1668

STATE OF NEW JERSEY

INTRODUCED MAY 5, 1980

By Assemblywoman KALIK, Assemblymen COSTELLO, MATTHEWS, LESNIAK, MAYS, JANISZEWSKI, Assemblywoman GARVIN and Assemblyman HERMAN

Referred to Committee on Judiciary, Law, Public Safety
and Defense

AN ACT to amend and supplement "An act concerning judgments and orders for support and maintenance," approved December 12, 1977 (P. L. 1977, c. 292).

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

1 1. Section 1 of P. L. 1977, c. 292 (C. 2A:17-56.1) is amended to
2 read as follows:

3 1. ***a.*** In any proceeding brought for failure to make support
4 and maintenance payments, upon a showing that such payments are
5 more than **[45]** 30 days overdue *****[and that the defendant has**
6 *failed to make up at least 50% of any overdue support and main-*
7 *tenance payments, *unless the defendant can show good cause for*
8 *this failure,*]*** the court **[may]** *****[shall]***** ****may**** grant
9 an order directing that an execution issue against the wages, debts,
10 earnings, salary, income from trust funds, or profits of the defen-
11 dant for the full amount of both the arrears payments and for the
12 satisfaction of current support and maintenance payments not-
13 withstanding any statutory limitation on executions issued against
14 the wages, earnings, salary or other income of the judgment debtor
15 and such execution shall have priority over any other executions.*

16 ***b. In those proceedings where the defendant has failed to pay
17 by the hearing date at least one half of the amount of arrears which
18 were owed at the commencement of the action, plus those accumu-
19 lated during the pendency of the action, and where the defendant
20 has shown no good cause for this failure, the court shall grant an
21 order directing that the execution shall issue. The execution shall
22 be for such an amount, determined by the court to assure payment

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

23 *over a reasonable period of time, of the full amount of both the*
 24 *arrears payments and for the satisfaction of current support and*
 25 *maintenance payments, notwithstanding any statutory limitation*
 26 *on executions issued against the wages, earnings, salary or other*
 27 *income of judgment debtor, and such execution shall have priority*
 28 *over any other executions.****

1 **2. Section 3 of P. L. 1977, c. 292 (C. 2A:17-56.3) is amended to
 2 read as follows:

3 3. An employer in remitting wages levied upon by a judgment or
 4 order of support may make a \$1.00 deduction to defray his book-
 5 keeping expenses for each pay check so levied upon [out of] in
 6 addition to the funds ordered for support.**

1 **[2.]** **3.** (New section) An order directing that an execu-
 2 tion issue against the defendant's wages pursuant to section 1 of
 3 P. L. 1977, c. 292 (C. 2A:17-56.1) may be docketed in any other
 4 court and from the time of its docketing it shall have the same force
 5 and operation as an order of the court in which it is docketed.

1 **4. (New section) An employer shall remit wages levied upon
 2 by a judgment or order of support within 10 days of the first wage
 3 payment after receipt of the judgment or order.**

1 **[3.]** **5.** This act shall take effect immediately.

STATEMENT

These amendments strengthen the State's garnishment law by requiring the courts to enforce garnishment orders which are 30 days overdue, and by providing for transferability of execution orders.

A strengthened garnishment law should increase State revenue by providing more effective collection of child support payments to offset welfare costs.

A 1668 (1980)

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1668

with Assembly committee amendment

STATE OF NEW JERSEY

DATED: MAY 19, 1980

These amendments strengthen the State's garnishment law by requiring the courts to enforce garnishment orders which are 30 days overdue, and by providing for transferability of execution orders.

A strengthened garnishment law should increase State revenue by providing more effective collection of child support payments to offset welfare costs.

The Assembly Judiciary, Law, Public Safety and Defense Committee amendment is for the purpose of allowing the court some discretion in this matter where a defendant can show some good cause for being behind in his payments. For example, where a defendant has failed to make his payments because of an emergency medical bill or lost check, a court may, in such a situation, try to assess the fault, balance the hardships to the plaintiff and defendant, and then make a decision on the garnishment of wages.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1668

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 29, 1980

Assembly Bill No. 1668 is aimed at improving New Jersey's garnishment law and thus helping to offset welfare costs by providing a more effective mechanism for collection of child support payments.

Under present New Jersey law, the wages of an individual who fails to make child support payments cannot be garnished until such support payments are 45 days overdue. Present law also allows an individual to make a token payment toward meeting his support obligation on the 44th day, thus preventing a court from issuing a garnishment order until another 45 days have past. For example, presently if an individual owes \$150 in child support and makes a \$1.00 payment on the 44th day, the court cannot garnish his wages.

To lower the waiting time and to eliminate the problem of token payments, Assembly Bill No. 1668 would provide that garnishment orders may be issued if support payments are more than 30 days overdue and the individual has failed to make up at least 50% of any overdue support payments unless the defendant can show good cause for this failure.

Assembly Bill No. 1668 also permits garnishment orders to be docketed in any court. Such orders can presently only be docketed in the court in which that order was issued. This situation can present enforcement problems when, for example, a garnishment order is issued by the Mercer County District Court and the individual moves to Ocean county. Assembly Bill No. 1668 would allow for the docketing of the Mercer order in Ocean county.

The Senate Judiciary Committee, added two amendments to Assembly Bill No. 1668 at the suggestion of the Department of Human Resources. The first of these amendments clarified the procedure with regard to the deduction by employees of bookkeeping expenses incurred as the result of a wage execution. The second amendment requires employers to begin remitting garnished wages within 10 days of the first wage payment after receipt of the judgment or order.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

May 4, 1981

ASSEMBLY BILL NO. 1668 (2nd OCR)

To the Assembly:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I am returning Assembly Bill No. 1668 (2nd OCR) with my objections for reconsideration.

This bill amends our law governing the execution of wages for failure to make support and maintenance payments. It would eliminate the court's discretion in issuing such executions and require that execution issue upon application under the following circumstances: 1) the payments have been overdue more than 30 days; 2) the defendant has failed to pay at least 50% of the arrears, and 3) defendant shows no good cause for his failure to make the payments.

The bill as drafted presents two concerns of a technical nature. First, we should clarify the figure that is to be used when calculating the 50% payment of arrears. In my opinion, the appropriate figure to use is the sum of the arrears due at the commencement of the proceeding and those accumulated during the pendency of the action. One half of that sum must be paid or a mandatory execution will issue. My second concern is that the bill could be construed as requiring execution of the full amount of a defendant's income until the arrears are paid. Such a result is inappropriate, and I recommend that the bill be amended to permit the court to require payments in such amounts and for such a period of time that the court deems appropriate.

My remaining concern is that the bill would have the effect of prohibiting execution where the 50% of the arrears had been paid. Thus, a party could continually be in arrears yet avoid execution by paying 50% of the arrears. The courts should have the discretion of imposing execution in such circumstances.

Accordingly, I return Assembly Bill No. 1668 (2nd OCR) for reconsideration and recommend that it be amended as follows:

Page 1, Section 1, line 3: After "1." insert "a."

Page 1, Section 1, line 5: Delete "and that the defendant has failed"

Page 1, Section 1, line 6: Delete

Page 1, Section 1, line 7: Delete

Page 1, Section 1, line 7A: Delete "failure" delete "shall" and insert "may"

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

Page 1, Section 1, line 14: Insert "b. In those proceedings where the defendant has failed to pay by the hearing date at least one half of the amount of arrears which were owed at the commencement of the action plus those accumulated during the pendency of the action and where the defendant has shown no good cause for this failure, the court shall grant an order directing that the execution shall issue. The execution shall be for such an amount determined by the court to assure payment over a reasonable period of time of the full amount of both the arrears payments and for the satisfaction of current support and maintenance payments notwithstanding any statutory limitation on executions issued against the wages, earnings, salary or other income of judgment debtor and such execution shall have priority over any other executions.

Respectfully,

/s/ Brendan Byrne

GOVERNOR

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF, SECRETARY