

No. 2006-109

AN ACT

SB 1205

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, providing for insurance proceeds intercept; and further providing for State disbursement unit.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 23 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

§ 4308.1. Collection of overdue support from monetary awards.

(a) General rule.—Overdue support shall be a lien by operation of law against the net proceeds of any monetary award, as defined in subsection (i), owed to an obligor, and distribution of any such award shall be stayed in an amount equal to the child support lien provided for under this section pending payment of the lien. Except as provided in subsection (c) or (f), nothing in this section shall provide a basis for a paying agent or an insurer to delay payment of a settlement, verdict or judgment.

(b) General procedure.—Except as provided in subsection (f), before the prevailing party or beneficiary can receive the proceeds of a monetary award, the prevailing party or beneficiary shall provide his attorney with a statement made subject to 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) that includes the prevailing party's or beneficiary's full name, mailing address, date of birth and Social Security number. The prevailing party or beneficiary shall also provide his attorney with written documentation of arrears from the Pennsylvania child support enforcement system website or, if no arrears exist, written documentation from the website indicating no arrears. The attorney shall obtain a copy of the prevailing party or beneficiary's statement and a lien report from the website at the time of the delivery of the release; the lien report shall be dated within 20 days of the date of the delivery of the release. In the event that there are arrears, the attorney shall make payment of any lien to the department's State disbursement unit from the net proceeds of any monetary award.

(c) Pro se actions.—If the prevailing party or beneficiary is not represented by an attorney, he shall provide the statement and written documentation of arrears or no arrears provided by subsection (b) or (d) to the insurer or other paying agent responsible for distribution of the monetary award who shall make payment of any lien or disputed lien amount, as described in subsection (h), to the department's State disbursement unit from the net proceeds of any monetary award.

(d) Use of private judgment search companies.—In lieu of receiving the statement and written documentation of arrears or no arrears provided in subsections (b), (c) and (f), an attorney or insurer may use the services of a private judgment search company approved by the department, or an insurer may use the services of the child support enforcement lien program operated through a central reporting agency approved by the department. An attorney or insurer may deduct the fee for such a judgment search from any payment to the prevailing party or beneficiary.

(e) Immunity.—An attorney, insurer or other paying agent that makes distribution in accordance with a statement and the written documentation required under subsection (b) or the report of an approved private judgment search company under subsection (d), or an insurer which furnishes information and transmits funds under the child support enforcement lien program operated through a central reporting agency approved by the department, shall be immune from any civil, criminal or administrative penalties for making an erroneous distribution. Nothing in this section shall give rise to a claim or cause of action against an attorney or an insurer by any person who asserts he is the intended obligee of the outstanding lien for child support.

(f) Workers' compensation awards.—With respect to any monetary award arising under the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, or the act of June 21, 1939 (P.L.566, No.284), known as The Pennsylvania Occupational Disease Act, no order providing for a payment shall be entered by the workers' compensation judge unless the prevailing party or beneficiary, who is a claimant under either or both of the acts, shall provide the judge with a statement made subject to 18 Pa.C.S. § 4904 that includes the full name, mailing address, date of birth and Social Security number for the prevailing party or beneficiary who is a claimant under either or both acts. The prevailing party or beneficiary, who is a claimant under either or both of the acts shall also provide the judge with either written documentation of arrears from the Pennsylvania child support enforcement system website or, if no arrears exist, written documentation from the website indicating no arrears. The judge shall order payment of the lien for overdue support to the department's State disbursement unit from the net proceeds due the prevailing party or beneficiary who is a claimant under either or both acts.

(g) Exception.—This section shall not apply to any monetary award due to a prevailing party or beneficiary under 12 years of age or, in the case of an award under the Workers' Compensation Act or The Pennsylvania Occupational Disease Act, a claimant under 12 years of age.

(h) Escrow.—In the event that there is a dispute as to the amount of arrears owed by the prevailing party, beneficiary or claimant based on a mistake of fact, the amount in dispute shall be placed in escrow in the department's State disbursement unit by the prevailing party's or beneficiary's attorney, and the escrowed funds shall not be distributed until

the dispute is resolved. In such event, the distribution of the remaining net proceeds of the monetary award shall not be stayed. A mistake of fact, as used in this subsection, shall be limited to errors in the amount of arrearage or mistaken identity. Upon resolution of the dispute, the amount of arrears shall be paid to the department's State disbursement unit.

(i) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Monetary award.” Any portion of a settlement paid as a lump sum negotiated in lieu of, or subsequent to the filing of a lawsuit for, or any civil judgment or civil arbitration award that is paid as a third party claim for bodily injury or death under a property and casualty insurance policy, or paid as a workers' compensation or occupational disease act award under a workers' compensation policy. The term includes self-insurers and also applies to property and casualty and workers' compensation or occupational disease act policies which are issued by an insurer licensed or authorized to do business in this Commonwealth. The term does not include a lump sum payable through a structured settlement annuity. The term shall apply only to those settlements, judgments, civil arbitrations, Workers' Compensation Act or The Pennsylvania Occupational Disease Act awards which are asserted and resolved in this Commonwealth.

“Net proceeds.” Moneys in excess of \$5,000 payable to a prevailing party or beneficiary, or in the case of an award under the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, or the act of June 21, 1939 (P.L.566, No.284), known as The Pennsylvania Occupational Disease Act, the claimant after payment of attorney fees, witness fees, court costs, reasonable litigation expenses, documented unpaid expenses incurred for medical treatment causally related to the claim, any workers' compensation or occupational disease indemnity or medical payment and payments to the medical assistance program under sections 1409 and 1412 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

“Obligee.” The term shall have the meaning provided under section 7101(b) (relating to short title of part and definitions).

“Obligor.” The term shall have the meaning provided under section 7101(b) (relating to short title of part and definitions).

“Overdue support.” The term shall have the meaning provided under section 4302 (relating to definitions).

Section 2. Section 4374(b) of Title 23 is amended and the section is amended by adding a subsection to read:

§ 4374. State disbursement unit.

* * *

(b) [Disbursements] Collections and disbursements.—The department may require that such collections and disbursements of support as the department may specify, including those related to persons not receiving public assistance, be processed through the State disbursement unit.

(1) The State disbursement unit shall use automated procedures, electronic processes and computer technology to the maximum extent feasible, efficient and economical for the collection and disbursement of support payments.

(2) If an employer is ordered to withhold income from more than one obligor to pay child support and employs 15 or more persons, the employer shall make payments to the State disbursement unit through electronic payment methods.

(3) If an employer has a history of two or more checks returned for nonsufficient funds, the employer shall make payments to the State disbursement unit through electronic funds transfer.

(4) An employer that is not required to make payments to the State disbursement unit in accordance with this subsection may voluntarily remit support payments through electronic funds transfer to the State disbursement unit.

(b.1) Penalty.—The department may impose a civil penalty of up to \$1,000 per violation, following notice and hearing, upon an employer who willfully fails to comply with the electronic funds transfer payment provisions of this section.

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Section 3. This act shall take effect in 60 days.

APPROVED—The 7th day of July, A.D. 2006.

EDWARD G. RENDELL