

ASSEMBLY, No. 78

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman KAVANAUGH and Assemblywoman CRECCO

1 AN ACT concerning alimony and supplementing chapter 17 of Title 2A
2 of the New Jersey Statutes.

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

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7 1. Every complaint, notice or pleading for the entry or modification
8 of an order of a court entered or modified for alimony or maintenance
9 shall include a written notice to the obligor stating that the order shall
10 be enforced by an income withholding upon the current or future
11 income due from the obligor's employer or successor employers and
12 against debts, income, trust funds, profits or income from any other
13 source due the obligor except as provided in section 2 of this act.

14 The court shall ensure that in the case of each obligor against whom
15 an alimony or maintenance order is or has been issued or modified, the
16 obligor's income shall be withheld to comply with the order. An
17 amount shall be withheld to pay the alimony or maintenance obligation
18 and it shall include an amount to be applied toward liquidation of
19 arrearages reduced to judgments. The income withholding provisions
20 shall also be applicable to all orders issued on or before the effective
21 date of this act.

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23 2. The income withholding shall be initiated by the probation
24 department of the county in which the obligor resides, immediately
25 after the court order has been issued; except that immediate
26 withholding shall not apply in those cases in which the obligor and
27 obligee agree in writing to an alternative arrangement or the obligor
28 or obligee demonstrates, and the court finds, good cause for
29 establishing an alternative arrangement. If an immediate withholding
30 is not ordered due to the above exceptions, the income withholding
31 shall be initiated when the obligor has failed to make a required
32 alimony or maintenance payment that has arrearages accrued equal to
33 the amount payable for 14 days. Subject to the provisions of this act,
34 the income withholding shall take effect without amendment to the
35 alimony or maintenance order or further court or quasi-judicial action

1 and without regard to any alternative arrangements entered into by the
2 parties.

3 The total amount of income to be withheld shall not exceed the
4 maximum amount permitted under section 303(b) of the federal
5 Consumer Credit Protection Act (15 U.S.C. § 1673(b)). The income
6 withholding shall be carried out in full compliance with all procedural
7 due process requirements. The Administrative Office of the Courts
8 shall establish procedures for promptly terminating the withholding
9 when necessary and for promptly refunding amounts which have been
10 improperly withheld.

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12 3. This act shall take effect immediately.

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STATEMENT

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17 This bill provides for payment of alimony or separate maintenance
18 by way of income withholding. The bill is modeled after the current
19 child support withholding statutes, N.J.S.A.2A:17-56.8 and
20 2A:17-56.9.

21 As provided in those statutes, alimony payment withholding would
22 not occur if the parties agree in writing to an alternative arrangement
23 or if the court finds good cause for establishing an alternative
24 arrangement, unless the obligor accumulates arrearages equal to the
25 amount payable for 14 days.

26 In addition, as provided in the child support statutes, the provisions
27 for income withholding for alimony would also be applicable to all
28 orders issued on or before the effective date of this act; the total
29 amount of income to be withheld could not exceed the maximum
30 amount permitted under the federal Consumer Credit Protection Act
31 (15 U.S.C. § 1673(b)); and the income withholding would be required
32 to be carried out in full compliance with all procedural due process
33 requirements. The bill provides that the Administrative Office of the
34 Courts would establish procedures for promptly terminating the
35 withholding when necessary and for promptly refunding amounts
36 which have been improperly withheld.

37 This bill embodies Recommendation 15 of the report of the
38 Commission to Study the Law of Divorce, issued April 18, 1995.

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Provides for payment of alimony by income withholding.