

SENATE, No. 1464

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 19, 1996

By Senator BYRANT

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

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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. a. A judgement 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 judgement, civil arbitration award or worker's compensation award
12 and shall have priority over all other civil judgements unless otherwise
13 provided by law. The lien shall stay the distribution of the net
14 proceeds to the prevailing party until the child support judgement is
15 satisfied. As used in this act "net proceeds" means any amount of
16 money, in excess of \$2,000, payable to the prevailing party after
17 attorney fees, witness fees, court costs, fees for health care providers
18 and other costs related to the lawsuit or settlement are deducted from
19 the award and "prevailing party" shall not include a partnership,
20 corporation, government entity or minor child.

21 b. Before distributing any net proceeds of a settlement, judgement
22 or award to the prevailing party, the attorney representing the
23 prevailing party shall initiate a search of child support judgements,
24 through a private judgement search company that maintains
25 information on child support judgements, to determine if the prevailing
26 party is a child support judgement debtor. If the prevailing party is not
27 represented by an attorney, the judgement search shall be initiated by
28 the opposing attorney or an insurance company before the proceeds
29 are distributed to the prevailing party. The judgement search company
30 shall provide a certification to the attorney, insurance company or
31 party initiating the lawsuit identifying whether or not the prevailing
32 party is a child support judgement debtor.

33 If there are no attorneys representing either party in a civil lawsuit,
34 the party bringing the lawsuit shall initiate the judgement search and
35 shall be required to file the certification with the court at least 10
36 working days prior to the trial or with the stipulation that the
37 certification shall be filed at the time of the settlement or dismissal of

1 the lawsuit.

2 For monies deposited with the court, no distribution of funds shall
3 be made until the attorney or prevailing party provides the Clerk of
4 the Superior Court with a copy of the certification showing that the
5 prevailing party is not a child support judgement debtor.

6 The fee for a judgement search is chargeable against the net
7 proceeds as a cost of the settlement, judgement or award.

8 c. If the certification shows that the prevailing party is not a child
9 support judgement debtor, the net proceeds may be paid to the
10 prevailing party immediately. If the certification shows that the
11 prevailing party is a child support judgement debtor, the attorney or
12 insurance company that initiated the search shall contact the Probation
13 Division of the Superior Court to arrange for the satisfaction of the
14 child support judgement. The attorney or insurance company shall
15 notify the prevailing party of the intent to satisfy the child support
16 judgement prior to the disbursement of any funds to the prevailing
17 party. Upon receipt of a Warrant of Satisfaction for the child support
18 judgement, the attorney or insurance company shall pay the balance of
19 the settlement, judgement or award to the prevailing party. If the net
20 proceeds are less than the amount of the child support judgement, the
21 entire amount of the net proceeds shall be paid to the Probation
22 Division as partial satisfaction of the judgement.

23 If there are no attorneys representing either party in a civil lawsuit
24 and the certification filed with the court shows that the prevailing
25 party is a child support judgement debtor, the court shall order that
26 the opposing party pay the amount of the child support judgement to
27 the Probation Division before any funds are paid to the prevailing
28 party. The opposing party shall also insure that any judgement related
29 to the lawsuit docketed with the Clerk of the Superior Court reflect
30 the Probation Division's superior claim to such funds.

31 d. An attorney who, in accordance with this act, satisfies a child
32 support judgement from the net proceeds of a settlement, judgement
33 or award, shall not be liable for payments which otherwise would have
34 been made pursuant to subsection a. of this section which were not so
35 identified to the attorney at the time of satisfaction.

36 e. An attorney who, or insurance company that, in accordance
37 with this act, satisfies a child support judgement from the net proceeds
38 of a settlement, judgement or award, shall not be liable to the
39 prevailing party or to the prevailing party's creditors.

40 f. An attorney shall not be required to challenge a child support
41 judgement unless retained by the prevailing party to do so.

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43 2. The Supreme Court may promulgate rules to effectuate the
44 purposes of this act.

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

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3 4. This act shall take effect immediately.

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6 STATEMENT

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8 This bill requires that upon the resolution of a lawsuit, civil
9 judgement, arbitration or worker's compensation case where a party
10 is entitled to receive a settlement, judgement or award, a lien be placed
11 on the net proceeds payable to the prevailing party, if the party is
12 found to be a child support judgement debtor.

13 Under the provisions of the bill, an attorney, insurance company, or
14 in the case of a civil lawsuit where neither party is represented by an
15 attorney, the party bringing the lawsuit, would be required to initiate
16 a child support judgement search using a private judgement search
17 company. The search would be used to determine whether or not the
18 prevailing party is a child support judgement debtor. The private
19 judgement search company would provide the attorney, insurance
20 company or party bringing the lawsuit with a certification of the
21 results of the search. In the case of a civil lawsuit, the party bringing
22 the lawsuit would be required to provide the court with a certification
23 10 working days prior to the trial or at the time of the settlement or
24 dismissal of the lawsuit.

25 If a child support judgement is not found, the net proceeds of the
26 settlement, judgement or award would be distributed to the prevailing
27 party immediately. If a child support judgement against the prevailing
28 party is found, an attorney or insurance company would be required to
29 contact the Probation Division of the Superior Court and arrange for
30 the satisfaction of the judgement prior to the disbursement of any
31 funds. In the case of a civil lawsuit where there are no attorneys
32 involved and it is determined that the prevailing party is a child
33 support judgement debtor, the party bringing the lawsuit would be
34 required to satisfy the judgement with the Probation Division. The
35 opposing party would also ensure that any judgement related to the
36 lawsuit reflect the Probation Division's claim to the funds.

37 The bill also limits the liability of an attorney or insurance company
38 when satisfying a judgement from the net proceeds of a settlement,
39 judgement or award. Also under the provisions of the bill, an attorney
40 would not be required to challenge a child support judgement unless
41 retained by the prevailing party to do so.

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

44 Finally, the bill repeals P.L. 1995 c. 334 (C.2A:17-56.37 et seq.)
45 which provides for the withholding of awards in civil lawsuits to pay

1 past due child support amounts. The provisions of that law are
2 obviated by this bill.

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