



2011 ASSEMBLY BILL 603

February 21, 2012 – Introduced by Representatives KRUG, ZIEGELBAUER, SPANBAUER, PETERSEN, DOYLE and ENDSLEY. Referred to Committee on Children and Families.

1 **AN ACT** *to renumber* 769.601; *to amend* 49.854 (5) (c) and 71.93 (3) (a); and *to*
2 *create* 49.895 and 769.601 (2) of the statutes; **relating to:** the collection of
3 delinquent child support and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, a state agency may certify to the Department of Revenue (DOR) a debt owed to the agency. DOR may then collect the debt by subtracting the amount from the debtor's tax refund. If the debtor owes more than one certified debt, DOR collects the earliest certified debt first. Under this bill, if a debtor owes more than one certified debt, DOR collects child support obligations first.

Under current law, if an individual who is obligated to pay court-ordered child or family support or maintenance (support) has an overdue support obligation because of a failure to pay, his or her name and amount of support owed is posted on a statewide support lien docket and the amount of support owed becomes a lien in favor of the Department of Children and Families (DCF) on all of the individual's property. The bill requires every insurer authorized to do business in this state, before paying any claim, to check the statewide support lien docket to ensure that the individual does not have an overdue support obligation (support liability). If the individual has a support liability, the insurer must pay the claim proceeds, up to the amount of the support liability, to DCF. After any support liability is paid, the individual is paid any claim proceeds that remain.

Under current law, DCF may enforce the lien in favor of DCF that is created automatically when an individual has an overdue support obligation by sending a

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notice to a financial institution to freeze any accounts that the individual has at the financial institution. The financial institution must then send to DCF funds from the individual's accounts, up to the amount of the overdue support obligation, if the individual does not request a hearing on the matter, or if the individual requests a hearing but the court determines that the individual owes the overdue support obligation. Current law also provides that DCF may send to a financial institution notice of a lien in favor of another state for an overdue support obligation. The notice must request enforcement of the lien and include a certification that any due process requirements were met in the other state. The bill provides that a support enforcement agency of another state may send to a financial institution in this state directly, instead of through DCF, notice that the other state has a lien for an overdue support obligation against accounts held at the financial institution, along with a request to enforce the lien and certification that all due process requirements have been met in the other state. If these requirements are met, the financial institution must send the amount stated in the notice to the address specified in the notice.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 49.854 (5) (c) of the statutes is amended to read:

2 49.854 **(5)** (c) *Liens in favor of other states.* Notwithstanding par. (b), if a
3 financial institution receives directly from a support enforcement agency in another
4 state a notice of a lien under par. (b) is in favor of another the other state, the notice
5 ~~sent by the department to the financial institution may consist of the~~ along with a
6 ~~request from the other state to enforce the lien, a~~ and certification by the department
7 that any necessary due process requirements were met in the other state, ~~a request~~
8 ~~that the financial institution shall honor the request from the other state by sending~~
9 funds in the amount specified in the request directly to the other state, and to the
10 ~~address to which the financial institution shall send the funds~~ specified in the
11 request. Notice and hearing requirements under pars. (d) and (f) do not apply to a
12 lien in favor of another state.

13 **SECTION 2.** 49.895 of the statutes is created to read:

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1 **49.895 Insurance claim intercept. (1)** In this section:

2 (a) “Insurer” has the meaning given in s. 600.01 (27).

3 (b) “Support liability” means an amount that is entered in the statewide
4 support lien docket under s. 49.854.

5 **(2)** Before paying an insurance claim to any individual, an insurer that is
6 authorized to do business in this state shall check the statewide support lien docket
7 to determine whether the individual to whom the claim is to be paid has a support
8 liability. If an individual to whom a claim is to be paid has a support liability, the
9 insurer shall distribute the claim proceeds as follows:

10 (a) First, to the department of children and families to pay the support liability,
11 up to the amount of the support liability or the amount of the claim, whichever is less.

12 (b) Next, to the individual, the remainder of the claim proceeds, if any.

13 **(3)** The department of children and families may promulgate rules for the
14 administration of this section, including procedures for insurers to follow and any
15 notice and hearing requirements.

16 **SECTION 3.** 71.93 (3) (a) of the statutes is amended to read:

17 71.93 **(3)** (a) The department of revenue shall setoff any debt or other amount
18 owed to the department, regardless of the origin of the debt or of the amount, its
19 nature or its date. If after the setoff there remains a refund in excess of \$10, the
20 department shall set off the remaining refund against certified debts of other state
21 agencies. If more than one certified debt exists for any debtor, the refund shall be
22 first set off against the earliest any debt certified, ~~except that no~~ under s. 49.855 (1).
23 No child support or spousal support obligation submitted by an agency of another
24 state may be set off until all debts owed to and certified by state agencies of this state
25 have been set off. When all debts have been satisfied, any remaining refund shall

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1 be refunded to the debtor by the department. Any legal action contesting a setoff
2 under this paragraph shall be brought against the state agency that certified the
3 debt under sub. (2).

4 **SECTION 4.** 769.601 of the statutes is renumbered 769.601 (1).

5 **SECTION 5.** 769.601 (2) of the statutes is created to read:

6 769.601 (2) A notice of a lien in favor of another state that is based on a support
7 obligation may be sent directly to a financial institution in this state under s. 49.854
8 (5) (c), and the lien may be enforced without registration of the support order or notice
9 of lien.

10 **SECTION 6. Initial applicability.**

11 (1) INSURANCE CLAIM INTERCEPT. If any insurance policy that is in effect on the
12 effective date of this subsection contains a provision that is inconsistent with the
13 treatment of section 49.895 of the statutes, the treatment of section 49.895 of the
14 statutes first applies to that policy on the date on which it is renewed.

15 (END)