

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1205 Session of
2006

INTRODUCED BY GREENLEAF, BOSCOLA, RAFFERTY, O'PAKE, RHOADES,
KITCHEN, WASHINGTON AND C. WILLIAMS, APRIL 27, 2006

REFERRED TO JUDICIARY, APRIL 27, 2006

AN ACT

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

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

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

8 § 4308.1. Insurance proceeds intercept.

9 (a) Duty of insurers.--Every insurer shall, within 30 days
10 prior to making any payment equal to or in excess of \$2,500 to
11 any claimant for personal injury or workers' compensation, make
12 inquiry with the department to determine whether the claimant is
13 an obligor who owes overdue support. Such inquiry may be made by
14 accessing the department's Internet website containing such
15 information, or by following the procedures established under an
16 automated data exchange agreement with the department.

17 (b) Certification.--Upon request of any insurer, the
18 domestic relations section shall issue a written certification

1 of the amount of overdue support owed by an obligor as of the
2 date of the certification and shall note on the docket the date
3 of the certification and the amount certified. Within 30 days
4 after the date of issuance of the certification, the proceeds of
5 any payment shall not be subject to any lien for overdue support
6 in excess of the amount shown on the certification. The domestic
7 relations section may charge a fee not to exceed the lesser of
8 its estimated cost of producing the report or \$20 for the
9 issuance of a certification or other written report of the
10 overdue support obligations of an obligor. The domestic
11 relations section or employees thereof shall not be liable for
12 error in the certification of amounts of overdue support except
13 as provided in 42 Pa.C.S. § 8550 (relating to willful
14 misconduct).

15 (c) Intercept of insurance proceeds.--Notwithstanding any
16 other provision of law, if the insurer determines that the
17 claimant or payee is an obligor who owes overdue support, the
18 insurer shall withhold from moneys due to that person the amount
19 of overdue support and transmit such amount to the State
20 disbursement unit for processing in accordance with the
21 procedure established under section 4374 (relating to State
22 disbursement unit). For purposes of this section, the phrase
23 "moneys due" shall not include moneys for attorney fees, medical
24 debts due physicians and hospitals, witness fees or court costs.
25 The insurer shall provide written notice of the withholding to
26 the claimant, the payee, his attorney, the domestic relations
27 section and the department.

28 (d) Appeal rights.--The department shall either issue a
29 notice or provide for the issuance of a notice by the domestic
30 relations section advising the obligor and the obligee of

1 receipt of any funds pursuant to this section and providing for
2 a right of appeal. Any person aggrieved by an action taken under
3 this section shall have a right to appeal. Any appeal taken from
4 a notice issued by the domestic relations section shall be taken
5 to the court having jurisdiction over the underlying support
6 obligation. Any appeal from a notice issued by the department
7 shall be taken to an independent hearing office designated by
8 the department unless the appellant is challenging the validity
9 or amount of the underlying support obligation, in which case
10 the court having jurisdiction over the support obligation shall
11 hear the appeal. If no appeal is filed within 30 days of the
12 date of the notice issued under this subsection, the withholding
13 shall be final and the State disbursement unit shall distribute
14 the funds to the obligee in accordance with the law.

15 (e) Immunity.--The department, the domestic relations
16 section and any insurer making a payment to the department
17 pursuant to this section, as well as their officers, directors,
18 attorneys, agents and employees, shall not be subject to civil
19 or criminal liability for carrying out their duties under this
20 subsection.

21 (f) Enforcement authority.--Following notice and hearing,
22 the department may administratively assess liability against an
23 insurer that willfully fails to comply with its obligations
24 under this section. Such liability shall be in the amount of
25 money not withheld in accordance with this section plus a civil
26 penalty in an amount not to exceed \$1,000 per violation.

27 (g) Definitions.--As used in this section, the following
28 words and phrases shall have the meanings given to them in this
29 subsection:

30 "Insurer." A foreign or domestic insurance company,

association or exchange holding a certificate of authority under the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, and any other entity, including a self-insurer, which makes payments for liability or injuries caused by another or similar entity which is authorized to do business in this Commonwealth.

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

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

"Overdue support." The term shall have the meaning provided in 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 ten or more persons, the employer shall make payments to the State

1 disbursement unit through electronic payment methods.

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

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

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

14 * * *

15 Section 3. This act shall take effect immediately.