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HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 94

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO CHILD SUPPORT LIENS ON
INSURANCE CLAIM PAYMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 2215, Title 13 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 2215. Child support liens.

4 (a) A child support installment or payment ~~which that~~ is past due ~~shall, is~~, as of the date on which it was due, be a
5 lien in favor of the obligee in an amount sufficient to satisfy the arrearage, whether the amount due is a fixed sum or is
6 accruing periodically. ~~Such~~ A child support lien ~~shall arise~~ under this subsection arises by operation of law, without the
7 necessity of obtaining a judicial determination of the arrearage or an order creating the lien, and such lien ~~shall incorporate~~
8 incorporates any unpaid child support ~~which shall accrue~~ that accrues while the lien is in effect.

9 (g) ~~Where~~ If an obligor has been ordered by the Court to pay child support and owes arrears or retroactive support
10 in a case enforced by the Division of Child Support Services ~~pursuant to~~ under Title IV-D of the Social Security Act (42
11 U.S.C. § 651 et seq.), the Director of the Division of Child Support Services may do 1 or more of the following:

12 (1) Cause a lien for arrears or retroactive support to be placed upon the obligor's distributive share of a
13 decedent's estate by filing notice of a child support lien with the Register of Wills of the county in which the decedent's
14 estate is being administered and by sending ~~copies~~ a written copy of the notice ~~by certified or registered mail~~ to the
15 obligor and to the personal representative of the decedent. ~~The notice shall contain the obligor's name and address, the~~
16 ~~obligor's Social Security number, if known, the name of the obligee and the amount of arrears or retroactive support as~~
17 ~~of a specified date. The lien shall attach~~ attaches to the obligor's distributive share upon the filing of the notice of the
18 lien with the Register of Wills. Thereafter, the personal representative of the decedent shall pay to the Director the
19 lesser of the obligor's distributive share or the amount of arrears or retroactive support. If the personal representative
20 fails to pay the Director in accordance with the lien, the personal representative ~~shall be~~ is liable on the personal
21 representative's bond to the Director, as the payee of the child support ~~obligation; obligation.~~

(2)a. Cause a lien for arrears or retroactive support to be placed upon any claim, counterclaim, cross- claim, action or suit, at law or in equity, of the obligor by filing notice of a child support lien with the Prothonotary or clerk of the court in which the claim, counterclaim, ~~cross-claim~~ cross-claim, or other action or suit is pending and by sending a copy of the notice ~~by certified or registered mail~~ to the obligor. ~~The notice shall contain the obligor's name and address, the obligor's Social Security number, if known, the name of the obligee, and the amount of arrears or retroactive support as of a specified date.~~ Upon the filing of the notice, the Prothonotary or clerk of the court shall mail a copy of the notice to the obligor and to all attorneys and insurance carriers of record, if known, each of whom ~~shall be~~ is deemed to have received the notice 5 days after the Prothonotary or clerk mailed the notice.

b. Any person, ~~firm~~ firm, or corporation, including an insurance carrier, making any payment or settlement in full or partial satisfaction of any claim, counterclaim, ~~cross-claim~~ cross-claim, or other action or suit after the receipt of the notice of lien ~~shall be~~ is liable to the Director, as payee of the child support order, in an amount equal to the lesser of the payment or settlement or the child support arrears or retroactive support; ~~and the support.~~ The Director may enforce the child support lien in an action in the Family Court against any person, ~~firm~~ firm, or corporation, including an insurance carrier, making the payment or ~~settlement;~~ settlement.

(3) Cause a lien for arrears or retroactive support to be placed upon any demand or cause of action for negligence or personal injury of the obligor by sending written notice of a child support lien ~~by certified or registered mail~~ to the obligor, to the party or parties alleged to be liable to the obligor, if known, and to their attorneys of record, if known. ~~The notice shall contain the obligor's names and address, the obligor's Social Security number, if known, the name of the obligee, and the amount of arrears or retroactive support as of a specified date.~~ The notice shall must also instruct the party to whom it is directed to deliver a copy of the notice to the party's insurance carrier, if any. The lien described in this paragraph ~~shall attach~~ attaches to any payment or settlement, after deducting expenses of recovery and attorneys' fees, made more than 5 days after the notice is mailed. Any person, ~~firm~~ firm, or corporation, including an insurance carrier, making any payment or settlement in full or partial satisfaction of any claim, counterclaim, ~~cross-claim~~ cross-claim, or other action or suit after the receipt of the notice of lien ~~shall be~~ is liable to the Director, as payee of the child support order, in an amount equal to the lesser of the payment or settlement or the child support arrears or retroactive support; ~~and the support.~~ The Director may enforce the child support lien in an action in the Family Court against any person, ~~firm~~ firm, or corporation, including an insurance carrier, making the payment or ~~settlement;~~ settlement.

(4) Cause a lien for arrears or retroactive support or an income withholding order to be placed upon any workers' compensation benefits payable to the obligor by filing notice of a child support lien with the Secretary of the

Industrial Accident Board and by sending a written copy of the notice by ~~certified or registered mail~~ to the obligor. The notice ~~shall contain the obligor's name and address, the obligor's Social Security number, if known, the name of the obligee, and the amount of arrears or retroactive support as of a specified date.~~ Upon the filing of the notice, the Secretary of the Industrial Accident Board shall mail a copy of the notice to the obligor and to all attorneys and insurance carriers of record, each of whom ~~shall be~~ is deemed to have received the notice 5 days after the date of mailing by the Secretary. The lien described in this paragraph ~~shall attach (g)(4) of this section attaches~~ to any Industrial Accident Board award or any payment or settlement, after deducting expenses or recovery and attorneys' fees, made more than 5 days after the Secretary of the Industrial Accident Board mailed the notice. The lien described in this paragraph ~~shall (g)(4) of this section does~~ not take priority over liens created by § 2363 of Title 19. Any person, ~~firm~~ firm, or corporation, including an insurance carrier, making any payment or settlement in full or partial satisfaction of any claim, counterclaim, ~~cross-claim~~ cross-claim, or other action or suit after the receipt of the notice of lien ~~shall be~~ is liable to the Director, as payee of the child support order, in an amount equal to the lesser of the payment or settlement or the child support arrears or retroactive support; ~~and the support.~~ The Director may enforce the child support lien in an action in the Family Court against any person, ~~firm~~ firm, or corporation, including an insurance carrier, making the payment or settlement. This paragraph ~~shall (g)(4) of this section does~~ not apply to periodic workers' compensation payments from which child support is paid by income attachment under § 513(b) of this ~~title;~~ title.

(5) Notwithstanding the provision of §§ 4733 and 4735 of Title 10 to the contrary, cause a lien for arrears or retroactive support to be perfected against real property by filing a child support lien notice with the Prothonotary in the county where the lien is sought to be filed. Upon the filing of the child support lien notice, the Prothonotary shall date and index the child support lien as a judgment and mail the obligor a copy of the notice by certified or registered mail. The filing of the child support lien notice ~~shall constitute~~ constitutes notice to all persons who are charged with notice of matters filed ~~in such office;~~ with the Prothonotary.

(6) Cause a lien for arrears or retroactive support to be perfected against accounts held by a financial institution by serving a notice of child support lien and notice of levy on said institution. Within 20 days after the date it receives the notice, the institution shall satisfy the lien by paying the amount of the lien to the Director of the Division of Child Support Services, as payee of the child support order, with any goods, chattels, rights, credits, ~~money~~ money, or effects of the obligor in the institution's custody, possession, or ~~control;~~ and control.

(7) Cause a lien for arrears or retroactive support to be perfected against designated nonexempt personal property of the obligor by filing a child support lien notice with the Prothonotary. The child support lien notice ~~shall~~

82 must describe the designated personal property against which it is perfected. Personal property subject to the child
83 support lien ~~includes, but is not limited to,~~ includes lump sum payments from a state or local agency, ~~including, but not~~
84 ~~limited to,~~ including unemployment compensation and other benefits, and public and private retirement funds, subject
85 to § 514 of the Retirement Income Security Act of 1974 [29 U.S.C. § 1144].

86 (h) For the purposes of this section, a child support lien notice must ~~contain:~~ contain all of the following:

87 (1) The docket number or case number and identity of the court or administrative agency that entered the child
88 support ~~order;~~ order.

89 (2) The name, address and, if known, the social security number of the ~~obligor;~~ obligor.

90 (3) The name and address of the obligee, unless protected from disclosure by a court or administrative order
91 or ~~finding, of the obligee;~~ finding.

92 (4) The amount of arrears or retroactive support as of a specified ~~date;~~ date.

93 (5) The name, ~~address~~ address, and phone number of the public entity or individual to contact for the obligor's
94 current payment record and past-due ~~arrearage; and~~ arrearage.

95 (6) The name and address of the person or agency to whom the payment of arrears and retroactive support
96 ~~shall~~ must be made.

97 (i) The Division of Child Support Services shall send timely written notice to the obligor ~~by first-class mail~~ of
98 action taken to perfect a child support lien, execute a levy, or seize the property. The notice shall specify the amount due,
99 the steps to be followed to release the property so placed under lien, levied upon or seized and the time period within which
100 to respond to such notice, and shall include the name of the court or administrative agency which entered the child support
101 order.

102 (j) The records of the Division of Child Support Services, including records transmitted electronically, ~~shall be~~ are
103 presumptive evidence of the amount of any lien for arrears or retroactive support. Any person, ~~firm~~ firm, or corporation,
104 including an insurance carrier or a financial institution, who has received notice of any child support lien shall determine
105 from the Division of Child Support Services the amount of unpaid arrears or retroactive support owed by the obligor as of
106 the date such party makes any payment to which a lien under this section attaches.

107 (k) The Division of Child Support Services may file notice of a lien or release of a lien or may transmit accounting
108 information regarding an obligor's arrears and retroactive support by any means, including electronic means.

109 (l) Except as provided in paragraph (l)(2) of this section, a child support lien ~~shall expire~~ expires upon the
110 termination of a current child support obligation and payment in full of any arrears and retroactive support, or upon release

of the lien by the Division of Child Support Services in the case of an order being enforced under Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), or by the obligee in a non-IV-D case.

(1) When all arrears and retroactive child support have been paid in full, the Division of Child Support Services, or the obligee in a non-IV-D case, shall enter satisfaction of such lien or judgment on the record in the office where the same is entered.

(2) The duration of a child support lien ~~shall be~~ is 10 years from the date on which the notice of lien is properly served on the holder of property; provided, however, that such lien may be renewed for another 10 years by complying with § 4711 of Title 10. Expiration of the child support lien ~~shall~~ does not terminate the underlying child support order or judgment or liquidate any past due support or retroactive support.

(n) The remedies provided in this section ~~shall be~~ are in addition to any other remedies for the enforcement of a support order.

Section 2. Amend Chapter 22, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2215A. Child support liens; data match.

(a) For purposes of this section:

(1) "Data collection organization" means an insurance claim data collection organization or data match program that cooperates and coordinates with the Division of Child Support Services.

(2) "Division" means the Division of Child Support Services.

(3) "Director" means the Director of the Division.

(b)(1) Upon notice of a claim based upon negligence, personal injury, or workers' compensation, an insurer authorized to transact business under Title 18 shall submit required claim data maintained by the insurer or other paying agent directly to a data collection organization.

(2) An insurer shall submit the claim data required under this section no less than monthly.

(3) The claim data required under this section must include the claimant's name and address and if known, the claimant's date of birth and social security number or other taxpayer identification number.

(c) A data collection organization must conduct a data match of all claimants provided under subsection (b) of this section and the data file provided by the Division and report any matches to the Division.

(d) If an insurer does not provide claim data under subsection (b) of this section, the insurer is liable to the Director for the amount that would have been due if the claim data had been reported and the lien issued and perfected.

(e) An insurer, other paying agent, or data collection organization is not liable for any of the following:

- 141 (1) Disclosing information under this section.
- 142 (2) Encumbering or surrendering assets under this section.
- 143 (3) Actions taken in good faith to comply substantially with the requirements of this section.
- 144 Section 3. This Act takes effect 90 days after its enactment into law.

SYNOPSIS

This Act will increase payments of child support arrears or retroactive support from payments for settlements and awards from negligence, personal injury, and workers compensation cases by requiring that all insurers share information with an insurance claim data collection organization.

The Division of Child Support Services ("Division") uses an insurance claim data collection organization to match individuals who are in arrears on child support or who owe retroactive child support with individuals with insurance claims based upon negligence, personal injury, or workers' compensation cases. The data collection organization performs a data match of the claimants provided by insurers and child support obligors provided by the Division. The data collection organization provides reports of matches to the Division so that the Division can issue a lien against the insurance claim to collect the child support arrears or retroactive support.

Currently, some insurers voluntarily submit claim information to the insurance claim data collection organization and in 2018, \$424,977 in unpaid child support was collected through this process. This Act requires that all insurers submit claim information to the insurance claim data collection organization and is expected to collect an additional \$150,000 - \$200,000 in unpaid child support.

This Act also allows written notice of a lien or action to perfect the lien to be sent by electronically or by first class mail to conform to industry practices.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.