



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-0347/P2
PJH:wlj:jf

DOA:.....Major, BB0115 - Assigning public employee benefits for child support

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

DOMESTIC RELATIONS

Under current law, if a person has been ordered to pay child or family support or maintenance, a portion of the person's income may be assigned, or set aside by the person's employer, to satisfy his or her support obligations and to pay back any support arrearages. Under current law, for the purpose of assigning money for support or arrearage payments, the person's income includes commissions, earnings, salaries, wages, pension benefits, workers' compensation or unemployment payments, certain lottery prizes, and other money due or to be due to the person. Under this bill, state income continuation insurance benefits and, if the person's occupation is law enforcement or fire fighting, duty disability benefits may be assigned for support or arrearage payments.

For further information see the *state and local* 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:

SECTION 1. 40.08 (1c) of the statutes is amended to read:

40.08 (1c) WITHHOLDING OF ANNUITY AND CERTAIN BENEFIT PAYMENTS.

Notwithstanding sub. (1), any monthly annuity paid under s. 40.23, 40.24, 40.25 (1) or (2), or 40.63 and any benefit paid under s. 40.62 or duty disability payment paid under s. 40.65 is subject to s. 767.75. The board and any member or agent thereof and the department and any employee or agent thereof are immune from civil liability for any act or omission while performing official duties relating to withholding any annuity payment pursuant to s. 767.57.

SECTION 2. 46.10 (14) (e) 1. of the statutes is amended to read:

46.10 (14) (e) 1. An order issued under s. 48.355 (2) (b) 4., 48.357 (5m) (a) or 48.363 (2) for support determined under this subsection constitutes an assignment of all commissions, earnings, salaries, wages, pension benefits, income continuation insurance benefits under s. 40.62, duty disability benefits under s. 40.65, benefits under ch. 102 or 108 and other money due or to be due in the future to the county department under s. 46.22 or 46.23 in the county where the order was entered or to the department, depending upon the placement of the child as specified by rules promulgated under subd. 5. The assignment shall be for an amount sufficient to ensure payment under the order.

SECTION 3. 49.345 (14) (e) 1. of the statutes is amended to read:

49.345 (14) (e) 1. An order issued under s. 48.355 (2) (b) 4., 48.357 (5m) (a), or 48.363 (2) for support determined under this subsection constitutes an assignment of all commissions, earnings, salaries, wages, pension benefits, income continuation insurance benefits under s. 40.62, duty disability benefits under s. 40.65, benefits under ch. 102 or 108, and other money due or to be due in the future to the county department under s. 46.22 or 46.23 in the county where the order was entered or to

the department, depending upon the placement of the child as specified by rules promulgated under subd. 5. The assignment shall be for an amount sufficient to ensure payment under the order.

SECTION 4. 301.12 (14) (e) 1. of the statutes is amended to read:

301.12 (14) (e) 1. An order issued under s. 938.183 (4), 938.355 (2) (b) 4., 938.357 (5m) (a) or 938.363 (2) for support determined under this subsection constitutes an assignment of all commissions, earnings, salaries, wages, pension benefits, income continuation insurance benefits under s. 40.62, duty disability benefits under s. 40.65, benefits under ch. 102 or 108 and other money due or to be due in the future to the county department under s. 46.215, 46.22 or 46.23 in the county where the order was entered or to the department, depending upon the placement of the child as specified by rules promulgated under subd. 5. The assignment shall be for an amount sufficient to ensure payment under the order.

SECTION 5. 767.75 (1f) of the statutes is amended to read:

767.75 (1f) PAYMENT ORDER AS ASSIGNMENT OF INCOME. A payment order constitutes an assignment of all commissions, earnings, salaries, wages, pension benefits, income continuation insurance benefits under s. 40.62, duty disability benefits under s. 40.65, benefits under ch. 102 or 108, lottery prizes that are payable in installments, and other money due or to be due in the future to the department or its designee. The assignment shall be for an amount sufficient to ensure payment under the order, obligation, or stipulation and to pay any arrearages due at a periodic rate not to exceed 50% of the amount of support due under the order, obligation, or stipulation so long as the addition of the amount toward arrearages does not leave the party at an income below the poverty line established under [42 USC 9902](#) (2).

SECTION 6. 767.75 (2m) (a) 1. of the statutes is amended to read:

767.75 (2m) (a) 1. An obligation to pay unpaid fees under s. 767.57 (1e) (b) 1m. constitutes an assignment of all commissions, earnings, salaries, wages, pension benefits, income continuation insurance benefits under s. 40.62, duty disability benefits under s. 40.65, benefits under ch. 102 or 108, lottery prizes that are payable in installments, and other money due or to be due in the future to the department or its designee.

SECTION 7. 767.75 (2m) (a) 2. of the statutes is amended to read:

767.75 (2m) (a) 2. An obligation to pay unpaid fees under s. 767.57 (1e) (b) 2m. constitutes an assignment of all commissions, earnings, salaries, wages, pension benefits, income continuation insurance benefits under s. 40.62, duty disability benefits under s. 40.65, benefits under ch. 102 or 108, lottery prizes that are payable in installments, and other money due or to be due in the future to the clerk of court to whom the fees are owed, or to his or her successor.

SECTION 9306. Initial applicability; Children and Families.

(1) ASSIGNMENT OF BENEFITS. The treatment of sections 40.08 (1c), 46.10 (14) (e) 1., 49.345 (14) (e) 1. (as it relates to income continuation insurance benefits and duty disability benefits), 301.12 (14) (e) 1., and 767.75 (1f) and (2m) (a) 1. and 2. of the statutes first applies to benefits paid on the effective date of this subsection.

(END)