

ASSEMBLY BILL

No. 1751

Introduced by Assembly Member Knowles

February 24, 1995

An act to amend Section 704.160 of the Code of Civil Procedure, and to amend Sections 5206 and 5281 of, and to add Section 5282.5 to, the Family Code, relating to support.

LEGISLATIVE COUNSEL'S DIGEST

AB 1751, as introduced, Knowles. Support enforcement.

(1) Existing law exempts workers' compensation payments to a judgment debtor from the enforcement of a money judgment, unless a person owed child, spousal, or family support seeks to apply the workers' compensation temporary disability benefits to satisfy a support judgment, as specified.

This bill would expand the applicability of this exception to vocational rehabilitation maintenance benefits, as defined.

(2) Existing law provides for the assignment of an obligor's earnings for the payment of court-ordered support, as specified. Existing law provides that earnings, to the extent that they are subject to an earnings assignment order for support, include, among other things, wages, salary, and payments due for workers' compensation temporary disability benefits.

This bill would provide that earnings also include payments for a rehabilitation maintenance allowance, as specified.

(3) Existing law requires an earnings assignment order for support to include a requirement that the person obligated to

provide support notify the obligee of any change of employment. Existing law defines an obligee to mean the person to whom support has been ordered to be paid, the district attorney, or other person designated by the court to receive payment.

This bill would require the obligor to notify the obligee when the obligor files an application for workers' compensation, as specified.

(4) Existing law pertaining to earnings assignment orders for support requires the employer of the obligor to notify the obligee that the obligor has left employment, as specified.

This bill would require the employer to notify the obligee when the obligor files an application for workers' compensation.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 704.160 of the Code of Civil
 2 Procedure is amended to read:
 3 704.160. (a) Except as provided by Chapter 1
 4 (commencing with Section 4900) of Part 3 of Division 4
 5 of the Labor Code, before payment, a claim for workers'
 6 compensation or workers' compensation awarded or
 7 adjudged is exempt without making a claim. Except as
 8 specified in subdivision (b), after payment, the award is
 9 exempt.

10 (b) Notwithstanding any other provision of law,
 11 during the payment of workers' compensation temporary
 12 disability *or vocational rehabilitation maintenance*
 13 *allowance* benefits described in subdivision (a) to a
 14 support judgment debtor, the support judgment creditor
 15 may, through the appropriate district attorney, seek to
 16 apply the *payments for* workers' compensation
 17 temporary disability ~~benefit—payment~~ *or vocational*
 18 *rehabilitation maintenance allowance benefits* to satisfy
 19 the support judgment as provided by Section 11350.1 of
 20 the Welfare and Institutions Code.



1 (c) Notwithstanding any other provision of law,
2 during the payment of workers' compensation temporary
3 disability *or vocational rehabilitation maintenance*
4 *allowance* benefits described in subdivision (a) to a
5 support judgment debtor under a support judgment,
6 including a judgment for reimbursement of public
7 assistance, the judgment creditor may, directly or
8 through the appropriate district attorney, seek to apply
9 the *payment for temporary disability benefit payments or*
10 *vocational rehabilitation maintenance allowance benefits*
11 to satisfy the support judgment by an earnings
12 assignment order for support, as defined in Section 5208
13 of the Family Code, or any other applicable enforcement
14 procedure. The amount to be withheld pursuant to the
15 earnings assignment order for support or other
16 enforcement procedure shall be 25 percent of the amount
17 of each periodic payment or any lower amount specified
18 in writing by the judgment creditor or court order,
19 rounded down to the nearest dollar. Otherwise, the
20 amount to be withheld shall be the amount the court
21 determines under subdivision (c) of Section 703.070. The
22 paying entity may deduct from each payment made
23 pursuant to an order assigning earnings under this
24 subdivision an amount reflecting the actual cost of
25 administration of this assignment, up to two dollars (\$2)
26 for each payment.

27 (d) Unless the provision or context otherwise requires,
28 the following definitions govern the construction of this
29 section.

30 (1) "Judgment debtor" or "support judgment debtor"
31 means a person who is owing a duty of support.

32 (2) "Judgment creditor" or "support judgment
33 creditor" means the person to whom support has been
34 ordered to be paid.

35 (3) "Support" refers to an obligation owing on behalf
36 of a child, spouse, or family; or an amount owing pursuant
37 to Section 11350 of the Welfare and Institutions Code. It
38 also includes past due support or arrearage when it exists.

39 (4) "*Vocational rehabilitation maintenance*
40 *allowance*" means the living expenses necessitated by the

1 *vocational rehabilitation services described in Section*
2 *139.5 of the Labor Code.*

3 SEC. 2. Section 5206 of the Family Code is amended
4 to read:

5 5206. “Earnings,” to the extent that they are subject
6 to an earnings assignment order for support under
7 Chapter 4 (commencing with Section 703.010) of
8 Division 2 of Title 9 of Part 2 of the Code of Civil
9 Procedure, include:

10 (a) Wages, salary, bonus, money, and benefits
11 described in Sections 704.110, 704.113, and 704.115 of the
12 Code of Civil Procedure.

13 (b) Payments due for services of independent
14 contractors, dividends, rents, royalties, residuals, patent
15 rights, or mineral or other natural resource rights.

16 (c) Payments or credits due or becoming due as a
17 result of written or oral contracts for services or sales
18 whether denominated as wages, salary, commission,
19 bonus, or otherwise.

20 (d) Payments due for workers’ compensation
21 temporary disability benefits *and for a rehabilitation*
22 *maintenance allowance as described in subdivision (c) of*
23 *Section 139.5 of the Labor Code.*

24 (e) Any other payments or credits due or becoming
25 due as a result of an enforceable obligation.

26 SEC. 3. Section 5281 of the Family Code is amended
27 to read:

28 5281. An assignment order required or authorized by
29 this chapter shall include ~~a requirement that~~ *both of the*
30 *following requirements:*

31 (a) ~~the~~ *The* obligor shall notify the obligee of any
32 change of employment and of the name and address of
33 the obligor’s new employer within 10 days of obtaining
34 new employment.

35 (b) *The obligor shall notify the obligee of any*
36 *application for workers’ compensation benefit payments*
37 *within 10 days of filing the application. This notice shall*
38 *include a copy of the form that the employee filed in*
39 *order to claim workers’ compensation benefits.*



1 SEC. 4. Section 5282.5 is added to the Family Code, to
2 read:

3 5282.5. An employer served with an assignment order
4 shall notify the obligee designated in the assignment
5 order by first-class mail, at the last known address of the
6 obligee, of each application for workers' compensation
7 benefits filed by the obligor. This notice shall include a
8 copy of the form that the employee filed in order to claim
9 workers' compensation benefits.

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