ASSEMBLY, No. 3035

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:
Assemblywoman PAMELA R. LAMPITT
District 6 (Burlington and Camden)

SYNOPSIS

Establishes separate class of claims against insolvent estates for child support judgments; modifies order for payment of claims by representative of insolvent estate.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning satisfaction of child support judgments and other claims against an insolvent estate, amending N.J.S.3B:22-2 and supplementing Title 3B of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. N.J.S.3B:22-2 is amended to read as follows:

3B:22-2. If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

a. Reasonable funeral expenses;

b. Costs and expenses of administration;

c. Debts for the reasonable value of services rendered to the decedent by the Office of the Public Guardian for Elderly Adults;

d. Debts and taxes with preference under federal law or the laws of this State;

e. Child support judgments;

f. Reasonable medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him;

[f.**]** g. Judgments, other than child support judgments, entered against the decedent according to the priorities of their entries respectively;

[g.**]** h. All other claims.

No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due. The commencement of an action against the personal representative for the recovery of a debt or claim or the entry of a judgment thereon against the personal representative shall not entitle such debt or claim to preference over others of the same class.

(cf: P.L.2005, c.304, s.47)

2. (New section) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall initiate a search of child support judgments, through a private judgment search company that maintains information on child support judgments, to determine if the decedent was a child support judgment debtor. The judgment search company shall provide a certification to the personal representative identifying whether or not the decedent was a child support judgment debtor. The certification shall be filed by the personal representative in accordance with the Rules Governing the Courts of the State of New Jersey.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

3. The New Jersey Supreme Court may adopt such Rules of Court and procedures as it deems necessary to effectuate the purposes of this act.

4. This act shall take effect immediately.

STATEMENT

This bill would create a new class of claims for child support judgments against an insolvent estate, and would direct child support judgments to be paid prior to other judgments and certain other claims.

Under current law, if the assets of an estate are insufficient to pay all claims in full, claims against the estate must be paid in a particular order. The order is as follows: (a) reasonable funeral expenses, (b) costs and expenses of administration, (c) debts for the reasonable value of services rendered to the decedent by the Office of the Public Guardian for Elderly Adults, (d) debts and taxes with preference under federal law or the laws of this State, (e) reasonable medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him, (f) all judgments, including child support judgments, and finally (g) all other claims.

Under the bill, child support judgments would be given greater preference than other judgments. Child support judgments would be paid after payment of reasonable funeral expenses; costs and expenses of administration; debts for the reasonable value of services rendered to the decedent by the Office of the Public Guardian for Elderly Adults; debts and taxes with preference under federal law or the laws of this State; but before medical and hospital expenses, other judgments, and all other claims.

The bill would require the personal representative to initiate a search of child support judgments through a private judgment search company in order to determine if the decedent was a child support judgment debtor. The judgment search company would be required to provide a certification to the personal representative identifying whether or not the decedent was a child support judgment debtor. The personal representative would be required to file the certification in accordance with any court rules to be established by the New Jersey Supreme Court. This provision relating to the procedure for initiating a child support judgment search through a private judgment search company is consistent with the procedures for initiating a child support judgment search prior to distributing proceeds from a settlement negotiated prior or subsequent to the filing of a lawsuit, civil judgment, civil arbitration award, inheritance or workers' compensation award as set forth in section 1 of P.L.2000, c.81 (C.2A:17-56.23b).

Pursuant to section 1 of P.L.1988, c.111 (C.2A:17-56.23a), any payment or installment of an order for child support, or those

portions of an order which are allocated for child support, whether ordered in this State or in another state, is fully enforceable and entitled as a judgment to full faith and credit and is a judgment by operation of law on and after the date it is due. For obligors who reside or own property in this New Jersey, such judgments, once docketed with the Clerk of the Superior Court, have the same force and effect, are enforced in the same manner and are subject to the same priorities as a civil money judgment entered by the court.

The bill would take effect immediately.