

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

1

HOUSE BILL 1280

Short Title: Child Support Lien.

(Public)

---

Sponsors: Representatives Culpepper, Hensley, R. Hunter, McCrary, Neely; and Warner.

---

Referred to: Insurance.

---

May 22, 1996

A BILL TO BE ENTITLED

AN ACT TO MAKE CORRECTIONS TO THE STATUTES ESTABLISHING LIENS  
ON INSURANCE PROCEEDS TO SECURE CHILD SUPPORT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 44 of the General Statutes is amended by adding a new Article 8A entitled "Liens Upon Insurance Proceeds to Secure Child Support."

Sec. 2. G.S. 44-49.1 is recodified as G.S. 44-48.1 in Article 8A of Chapter 44 of the General Statutes.

Sec. 3. G.S. 44-48.1, as recodified by this act, reads as rewritten:

**"§ 44-48.1. (Effective July 1, 1996) Lien created for payment of past-due child support obligations.**

(a) In the event that the Department of Human Resources or any other obligee, as defined in G.S. 110-129, provides written notification to an insurance company authorized to issue policies of insurance pursuant to ~~this~~ Chapter 58, except for accident and health insurance as defined in G.S. 58-7-15(3), that a claimant or beneficiary under a contract of insurance owes past-due child support and accompanies this information with a certified copy of the court order ordering support together with proof that the claimant or beneficiary is past due in meeting this obligation, there is created a lien upon any insurance proceeds in favor of the Department or obligee. This section shall apply only in those instances in which there is a nonrecurring payment of a lump-sum amount equal

1 to or in excess of three thousand dollars (\$3,000) or periodic payments with an aggregate  
2 amount that equals or exceeds three thousand dollars (\$3,000).

3 (b) As used in this section, accident and health insurance does not include  
4 disability income insurance, but does include hospital, medical, or dental service  
5 corporation coverage and health maintenance organization coverage."

6 Sec. 4. G.S. 44-50 reads as rewritten:

7 "**§ 44-50. Receiving person charged with duty of retaining funds for purpose stated;**  
8 **evidence; attorney's fees; charges.**

9 (a) Such a lien as provided for in G.S. 44-49 or ~~G.S. 44-49.1~~ G.S. 44-48.1 shall also  
10 attach upon all funds paid to any person in compensation for or settlement of the said  
11 injuries, whether in litigation or otherwise; and it shall be the duty of any person  
12 receiving the same before disbursement thereof to retain out of any recovery or any  
13 compensation so received a sufficient amount to pay the just and bona fide claims for  
14 such drugs, medical supplies, ambulance service and medical attention and/or hospital  
15 service, after having received and accepted notice thereof: Provided, that evidence as to  
16 the amount of such charges shall be competent in the trial of any such action: Provided,  
17 further, that nothing herein contained shall be construed so as to interfere with any  
18 amount due for attorney's services: Provided, further, that the lien hereinbefore provided  
19 for in G.S. 44-49 shall in no case, exclusive of attorneys' fees, exceed fifty percent (50%)  
20 of the amount of damages recovered.

21 (b) A lien as provided for in G.S. 44-48.1 shall be subordinate to a lien provided  
22 for in G.S. 44-49."

23 Sec. 5. This act becomes effective July 1, 1996.