

## §2301. Creation of debt to department

**1. Public assistance.** Debts due the department for public assistance are as follows.

A. When a support order has not been established, a payment of public assistance for the benefit of the dependent child creates a debt due the department from the responsible parent for past support. The amount of debt due the department is established by application of the most current child support scale to the responsible parent's income for the time period in which the department was entitled to support payments. In the absence of sufficient reliable information to calculate a responsible parent's past income, it is presumed that the responsible parent had an earning capacity equal to the average weekly wage of a worker within this State as determined by the Department of Labor statistics for the applicable years. A different annual income may be used if there is sufficient reliable evidence to conclude reasonably that the responsible parent earned a greater or lesser actual income. A present disability to pay child support, legal or otherwise, does not bar a determination of past debt due the department for any relevant period in which the disability did not exist. When the department establishes a periodic support payment by administrative decision, the debt is limited to the amount stated in the decision. [PL 1997, c. 466, §16 (AMD); PL 1997, c. 466, §28 (AFF).]

B. When a support order has been established, the debt due the department from the responsible parent is the amount established under that order.

(1) The debt may not be limited by the amount of public assistance paid for the benefit of the dependent child. Amounts collected by the department in excess of public assistance expended must be distributed pursuant to section 2401.

(2) The issuance of a support order does not relieve the responsible parent of any liability for a debt that previously had accrued under paragraph A. [PL 1997, c. 466, §16 (AMD); PL 1997, c. 466, §28 (AFF).]

[PL 1997, c. 466, §16 (AMD); PL 1997, c. 466, §28 (AFF).]

**2. Failure to pay child or spousal support.** For actions initiated pursuant to section 2103, failure to pay support obligations under a support order creates a debt due the applicant. Upon execution of a contract between the department and the applicant, the department may take action to establish, enforce or collect the debt under any appropriate statute, including, but not limited to, remedies contained in this article. The department is subrogated to the rights of the payee as provided in section 2351.

[PL 1997, c. 466, §16 (AMD); PL 1997, c. 466, §28 (AFF).]

**3. Default judgment.** If the responsible parent defaults or otherwise fails to appear, and no support order has been established, the court or administrative hearing officer shall presume that the responsible parent has an earning capacity equal to the average weekly wage of a worker within this State as determined by the Department of Labor statistics for the applicable years. A different annual income than the one specified by this subsection may be used if there is sufficient reliable evidence to conclude reasonably that the responsible parent earned a greater or lesser actual income.

[PL 1997, c. 466, §16 (AMD); PL 1997, c. 466, §28 (AFF).]

**4. Interstate cooperation.** With the execution of an application for nonwelfare services between a state and a resident of that state, the state may request the department to enforce or collect any unpaid support debt belonging to the applicant. Upon written request by a state to the department, the department may attempt to collect either the welfare or nonwelfare debt by action under any appropriate laws, including, but not limited to, remedies established by this article.

[PL 2001, c. 264, §11 (AMD).]

## SECTION HISTORY

PL 1995, c. 694, Pt. B, §2 (NEW). PL 1995, c. 694, Pt. E, §2 (AFF). PL 1997, c. 466, §16 (AMD). PL 1997, c. 466, §28 (AFF). PL 2001, c. 264, §11 (AMD).

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