

SENATE BILL No. 393

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-8.1-9.5; IC 12-14; IC 31-9-2-83; IC 31-16-12.5-6.

Synopsis: Tax refund intercepts for child support arrearages. Provides that an obligation owed by an individual is not subject to a state tax income refund set off if: (1) the obligation arises from arrears on child support payments that initially accrued while the individual was the noncustodial parent of the child for whom the child support payments were owed; and (2) the individual is currently the custodial parent of that child. Provides that the first \$50 of child support, or the amount of the child support payment if it is less than \$50, collected on behalf of a child in a month for reimbursement of temporary services must be passed through to the child's family and disregarded in determining the amount of temporary assistance provided to the family.

Effective: July 1, 2021.

Freeman

January 14, 2021, read first time and referred to Committee on Judiciary.



First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

SENATE BILL No. 393

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-8.1-9.5-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. **Except as provided**
3 **in section 7(d) of this chapter**, if a debtor owes a claimant agency a
4 certified delinquent debt that agency is entitled to have the department
5 set off the tax refund against the delinquent debt.

6 SECTION 2. IC 6-8.1-9.5-7, AS AMENDED BY P.L.117-2018,
7 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2021]: Sec. 7. (a) This subsection applies to a claimant agency
9 described in section 1(1)(A) of this chapter. **Subject to subsection (d)**,
10 if a claimant agency receives written notice that a debtor intends to
11 contest its claim to a debt and set off, the claimant agency shall hold a
12 hearing under IC 4-21.5-3.

13 (b) This subsection applies to a claimant agency that is a political
14 subdivision described in section 1(1)(B) of this chapter. If a claimant
15 agency receives written notice that a debtor intends to contest the claim
16 to a debt and set off following the notice provided under section 5 of
17 this chapter, the claimant agency shall send written notice of and hold



1 a hearing as provided in subsection (c).

2 (c) A notice issued by a political subdivision under subsection (b)
3 must state substantially the following:

4 (1) The political subdivision's basis for the claim to the debt and
5 set off.

6 (2) The date on which the political subdivision submitted the debt
7 owed by the debtor for a tax refund set off under this chapter.

8 (3) The date, time, and place at which the political subdivision
9 will conduct the hearing.

10 (4) The procedures under which the hearing will be conducted.

11 (5) A statement that in addition to the amount of the debt owed by
12 the debtor, the total amount of the set off of the debtor's tax refund
13 may include the following fees for processing the set off of the
14 debtor's tax refund, as applicable:

15 (A) The collection fee described in section 10(a) of this
16 chapter.

17 (B) One (1) or more local collection assistance fees described
18 in section 10(b) of this chapter.

19 **(d) If the child support bureau files an application for a set off**
20 **under section 3 of this chapter, and the debt that is the subject of**
21 **the application arises from arrears on child support payments**
22 **owed by the debtor to the child support bureau, the child support**
23 **bureau may not make a final determination or certification that**
24 **the debt is valid and subject to a set off under this chapter if the**
25 **debtor, at a hearing described in subsection (a), demonstrates by**
26 **clear and convincing evidence that:**

27 **(1) the debt that is the subject of the application arises from**
28 **arrears on child support payments owed by the debtor that**
29 **initially accrued while the debtor was the noncustodial parent**
30 **of the child for whom the child support payments were owed;**
31 **and**

32 **(2) the debtor is currently the custodial parent of that child.**

33 SECTION 3. IC 6-8.1-9.5-8, AS AMENDED BY P.L.117-2018,
34 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2021]: Sec. 8. **Except as provided in section 7(d) of this**
36 **chapter**, after a final determination of the validity of a debt due a
37 claimant agency pursuant to sections 6 and 7 of this chapter, the
38 claimant agency shall certify to the department the amount owed by the
39 debtor to the claimant agency that is subject to set off. Upon receipt of
40 certification of a debt, the department shall set off the appropriate
41 amount and pay it to:

42 (1) the appropriate claimant agency; or



- 1 (2) the clearinghouse for deposit in the clearinghouse's account in
 2 the investment pool established under IC 5-13-9-11(e).
- 3 SECTION 4. IC 12-14-2-3, AS AMENDED BY P.L.14-2020,
 4 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2021]: Sec. 3. (a) Except as provided in subsection (b), when
 6 determining the amount of assistance, an accounting must be taken of
 7 any income or property of the child that the child may receive from
 8 another source.
- 9 (b) The following may not be considered as income or property of
 10 the child when determining the amount of assistance for the child:
- 11 (1) Money in an individual development account established
 12 under IC 4-4-28 that belongs to a child or a member of the child's
 13 family.
- 14 (2) A Holocaust victim's settlement payment received by the child
 15 or a member of the child's family.
- 16 (3) Money earned by the child or a member of the child's family
 17 as a student participating in:
- 18 (A) a paid internship;
- 19 (B) a work based learning course (as defined in
 20 IC 20-43-8-0.7); or
- 21 (C) paid postsecondary work experience that allows the
 22 individual to apply for a related apprenticeship (as defined by
 23 IC 20-43-8-0.3).
- 24 **(4) The amount of child support collected on behalf of the**
 25 **child in a month that is passed through to the child's family**
 26 **under IC 12-14-7-4(b).**
- 27 SECTION 5. IC 12-14-7-4 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 4. (a) An assignment
 29 under section 1 of this chapter:
- 30 (1) becomes effective when an applicant becomes eligible to
 31 receive assistance;
- 32 (2) **except as provided in subsection (b)**, is valid up to the
 33 amount of assistance provided to a recipient that has not been
 34 reimbursed to the agency responsible for administering Title IV-A
 35 of the federal Social Security Act; and
- 36 (3) terminates:
- 37 (A) with respect to current support, at the end of a benefit
 38 period in which a recipient becomes ineligible to receive
 39 assistance; and
- 40 (B) with respect to accrued support, when all assistance
 41 received by the recipient on behalf of the recipient or on behalf
 42 of a child has been repaid.



1 **(b) The first fifty dollars (\$50) of child support, or the amount**
 2 **of the child support payment if it is less than fifty dollars (\$50),**
 3 **collected on behalf of a child in a month shall be passed through to**
 4 **the child's family and disregarded in determining the amount of**
 5 **the assistance grant provided to the family under IC 12-14-2-3.**

6 SECTION 6. IC 31-9-2-83, AS AMENDED BY P.L.186-2019,
 7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2021]: Sec. 83. "Noncustodial parent", for purposes of
 9 IC 31-14-15, IC 31-16-6-1.5, **IC 31-16-12.5**, and IC 31-17-4, means
 10 the parent who is not the custodial parent.

11 SECTION 7. IC 31-16-12.5-6 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6. (a) **Except as**
 13 **provided in subsection (d)**, the court shall issue a final order for a
 14 state income tax refund setoff following a hearing under this chapter if
 15 the court determines by clear and convincing evidence that the obligor
 16 named in the petition:

17 (1) is at least one thousand five hundred dollars (\$1,500) in
 18 arrears on child support payments; and

19 (2) has intentionally violated the terms of the most recent child
 20 support order applying to the obligor.

21 (b) The final order must include the amount of child support
 22 arrearage that the department of state revenue shall withhold from the
 23 obligor's state income tax refund and the obligor's Social Security
 24 number.

25 (c) In order for the setoff to take effect with respect to a state income
 26 tax refund, the final order of the court must be received by the
 27 department of state revenue before November 1 of the taxable year for
 28 which the tax refund is payable.

29 **(d) If the court determines by clear and convincing evidence**
 30 **that:**

31 **(1) the arrears on child support payments owed by the obligor**
 32 **named in the petition initially accrued while the obligor was**
 33 **the noncustodial parent of the child for whom the child**
 34 **support payments were owed; and**

35 **(2) the obligor named in the petition is currently the custodial**
 36 **parent of that child;**

37 **the court may not issue a final order for a state income tax refund**
 38 **setoff under this chapter.**

