



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
SB2380

Introduced 2/3/2004, by Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

225 ILCS 425/2.04

from Ch. 111, par. 2005.1

Amends the Collection Agency Act. Provides that a collection agency may not impose a fee or charge for any child support payments collected through the efforts of a federal, State, or local government agency. Provides that no collection agency that collects child support payments shall (i) impose a charge or fee for collection of a current child support payment, (ii) fail to apply collections to current support as specified in the order for support before applying collection to arrears or other amounts, or (iii) designate a current child support payment as arrears or other amount owed. Requires the Department of Professional Regulation to determine a fee rate of not less than 25% but not greater than 35%, based upon presentation by the licensees as to costs to provide the service and a fair rate of return. Effective immediately.

LRB093 19314 AMC 45050 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning professional regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Collection Agency Act is amended by changing
5 Section 2.04 as follows:

6 (225 ILCS 425/2.04) (from Ch. 111, par. 2005.1)

7 (Section scheduled to be repealed on January 1, 2006)

8 Sec. 2.04. Child support indebtedness.

9 (a) Persons, associations, partnerships, or corporations
10 engaged in the business of collecting child support
11 indebtedness owing under a court order as provided under the
12 Illinois Public Aid Code, the Illinois Marriage and Dissolution
13 of Marriage Act, the Non-Support of Spouse and Children Act,
14 the Non-Support Punishment Act, the Illinois Parentage Act of
15 1984, or similar laws of other states are not restricted (i) in
16 the frequency of contact with an obligor who is in arrears,
17 whether by phone, mail, or other means, (ii) from contacting
18 the employer of an obligor who is in arrears, (iii) from
19 publishing or threatening to publish a list of obligors in
20 arrears, (iv) from disclosing or threatening to disclose an
21 arrearage that the obligor disputes, but for which a verified
22 notice of delinquency has been served under the Income
23 Withholding for Support Act (or any of its predecessors,
24 Section 10-16.2 of the Illinois Public Aid Code, Section 706.1
25 of the Illinois Marriage and Dissolution of Marriage Act,
26 Section 4.1 of the Non-Support of Spouse and Children Act,
27 Section 26.1 of the Revised Uniform Reciprocal Enforcement of
28 Support Act, or Section 20 of the Illinois Parentage Act of
29 1984), or (v) from engaging in conduct that would not cause a
30 reasonable person mental or physical illness. For purposes of
31 this subsection, "obligor" means an individual who owes a duty
32 to make periodic payments, under a court order, for the support

1 of a child. "Arrearage" means the total amount of an obligor's
2 unpaid child support obligations.

3 (a-5) A collection agency may not impose a fee or charge,
4 including costs, for any child support payments collected
5 through the efforts of a federal, State, or local government
6 agency, including but not limited to child support collected
7 from federal or State tax refunds, unemployment benefits, or
8 Social Security benefits.

9 No collection agency that collects child support payments
10 shall (i) impose a charge or fee, including costs, for
11 collection of a current child support payment, (ii) fail to
12 apply collections to current support as specified in the order
13 for support before applying collection to arrears or other
14 amounts, or (iii) designate a current child support payment as
15 arrears or other amount owed. In all circumstances, the
16 collection agency shall turn over to the obligee all support
17 collected in a month up to the amount of current support
18 required to be paid for that month.

19 As to any fees or charges, including costs, retained by the
20 collection agency, that agency shall provide documentation to
21 the obligee demonstrating that the child support payments
22 resulted from the actions of the agency.

23 After collection of the total amount or arrearage,
24 including statutory interest, due as of the date of execution
25 of the collection contract, no further fees may be charged.

26 (a-10) The Department of Professional Regulation shall
27 determine a fee rate of not less than 25% but not greater than
28 35%, based upon presentation by the licensees as to costs to
29 provide the service and a fair rate of return. This rate shall
30 be established by administrative rule.

31 Without prejudice to the determination by the Department of
32 the appropriate rate through administrative rule, a collection
33 agency shall impose a fee of not more than 29% of the amount of
34 child support actually collected by the collection agency
35 subject to the provisions of subsection (a-5). This interim
36 rate is based upon the March 2002 General Account Office report

1 "Child Support Enforcement", GAO-02-349. This rate shall apply
2 until a fee rate is established by administrative rule.

3 (b) The Department shall adopt rules necessary to
4 administer and enforce the provisions of this Section.

5 (Source: P.A. 90-673, eff. 1-1-99; 91-613, eff. 10-1-99.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.