



2013 SENATE BILL 361

October 22, 2013 – Introduced by Senators VUKMIR, L. TAYLOR, RISSER, LAZICH and HARRIS, cosponsored by Representatives STEINEKE, KRUG, SPIROS, BIES, SEVERSON, JAGLER, NYGREN, MURTHA, KLEEFISCH, THIESFELDT and GENRICH. Referred to Committee on Workforce Development, Forestry, Mining, and Revenue.

1 **AN ACT** *to repeal* 71.93 (3) (a) 1.; *to amend* 71.93 (3) (a) (intro.), 71.93 (3) (am)
2 and 71.93 (8) (b) 6.; and *to create* 71.93 (3) (a) 1m. of the statutes; **relating to:**
3 the refund setoff for state debt collections.

Analysis by the Legislative Reference Bureau

Under current law, a state agency may certify to DOR debts owed to the state agency. DOR then collects the debt by subtracting the amount from any state tax refund owed to the debtor. DOR first collects any debts owed to it, and then the debts certified to DOR are collected in the following order:

1. Wisconsin child support, family support, and maintenance obligations certified by the Department of Children and Families.
2. State agency debt collected pursuant to an agreement with an individual taxpayer and debt certified by the courts, the legislature, or authorities.
3. Debt owed to local units of government collected pursuant to an agreement with an individual taxpayer.
4. State agency debt, other than child support obligations.
5. Child support or spousal support obligations submitted by an agency of another state.
6. Debt certified by counties and municipalities.
7. Federal tax obligations.
8. Tribal obligations.
9. Tax obligations of other states.

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Under this bill, DOR first collects Wisconsin child support, family support, and maintenance obligations certified by the Department of Children and Families before collecting any other debt.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.93 (3) (a) (intro.) of the statutes, as affected by 2013 Wisconsin
2 Act 20, is amended to read:

3 71.93 (3) (a) (intro.) The department of revenue shall setoff any debt ~~or other~~
4 amount owed to the department, regardless of the origin of the debt or of the amount,
5 its nature or its date under s. 49.855 (1), certified by the department of children and
6 families under sub. (2). If after the setoff there remains a refund in excess of \$10, the
7 department shall set off the remaining refund against certified debts of other entities
8 in the following order:

9 **SECTION 2.** 71.93 (3) (a) 1. of the statutes, as created by 2013 Wisconsin Act 20,
10 is repealed.

11 **SECTION 3.** 71.93 (3) (a) 1m. of the statutes is created to read:

12 71.93 (3) (a) 1m. Debt or other amount owed to the department, regardless of
13 the origin of the debt or of the amount, its nature, or its date.

14 **SECTION 4.** 71.93 (3) (am) of the statutes is amended to read:

15 71.93 (3) (am) If more than one certified debt exists for any debtor for the same
16 type of debt specified under par. (a) ~~1.~~ 1m. to 9., the refund shall be first set off against
17 the earliest debt certified, except that no child support or spousal support obligation
18 submitted by an agency of another state may be set off until all debts owed to and
19 certified by state agencies of this state have been set off. When all debts have been

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1 satisfied, any remaining refund shall be refunded to the debtor by the department.

2 Any legal action contesting a setoff under this paragraph shall be brought against

3 the entity that certified the debt.

4 **SECTION 5.** 71.93 (8) (b) 6. of the statutes, as affected by 2013 Wisconsin Act 20,

5 is amended to read:

6 71.93 (8) (b) 6. If the debtor owes debt to the department and to other entities,

7 payments shall first apply to debts owed to the department of children and families

8 under s. 49.855 (1), then to the other entities in the order determined under sub. (3)

9 (a).

10 **SECTION 6. Effective date.**

11 (1) This act takes effect on January 1, 2014.

12

(END)