

SENATE BILL NO. 97  
INTRODUCED BY V. COCCHIARELLA  
BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT THE DEPARTMENT OF JUSTICE MAY RECEIVE A WORKERS' COMPENSATION PAYMENT FOR A HIGHWAY PATROL MEMBER RECEIVING A DEPARTMENT OF JUSTICE SALARY BENEFIT; AMENDING SECTIONS 39-71-742, 39-71-743, AND 44-1-511, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 39-71-742, MCA, is amended to read:

**"39-71-742. Who may receive payment.** (1) ~~Where payment is~~ A payment due to a child under 18 years of age or to a person adjudged incompetent, ~~the same shall~~ must be made to the parent or to the duly appointed guardian, ~~as the case may be,~~ and the written receipt of such parent or guardian ~~shall~~ must acquit the employer, the insurer, or the department, ~~as the case may be,~~ of further liability.

(2) A payment due to a member of the highway patrol receiving the salary benefit provided in 44-1-511 must be made to the department of justice to offset the salary benefit until the member is no longer eligible to receive the salary benefit.

~~(2)(3)~~ (3) In other cases, payment ~~shall~~ must be made to the person entitled ~~thereto~~ to the payment or to ~~his duty~~ the person's authorized representative."

**Section 2.** Section 39-71-743, MCA, is amended to read:

**"39-71-743. Assignment or attachment of payments.** (1) Payments under this chapter may not be assignable, subject to attachment or garnishment, or held liable in any way for debts, except:

(a) as provided in 71-3-1118;

(b) a portion of any lump-sum award or periodic payment to pay a monetary obligation for current or past-due child support, subject to the limitations in subsection (2), whenever the support obligation is established by order of a court of competent jurisdiction or by order rendered in an administrative process authorized by state law;

(c) as provided in 53-2-612 or 53-2-613 for medical benefits paid pursuant to this chapter; ~~or~~

(d) as provided in 39-71-742; or

~~(d)~~(e) for workers' compensation benefits payable to an injured worker to pay restitution to an insurer whenever the injured worker is subject to court-ordered restitution for theft of workers' compensation benefits. The insurer shall notify the injured worker in writing of the withholding of any court-ordered restitution from the injured worker's benefits.

(2) Payments under this chapter are subject to assignment, attachment, or garnishment for child support as follows:

(a) for any periodic payment, an amount up to the percentage amount established in the guidelines promulgated by the department of public health and human services pursuant to 40-5-209; or

(b) for any lump-sum award, an amount up to that portion of the award that is necessary to pay current child support and a past-due child support obligation.

(3) After determination that the claim is covered under the Workers' Compensation Act, the liability for payment of the claim is the responsibility of the appropriate workers' compensation insurer. Except as provided in 39-71-704(7), a fee or charge is not payable by the injured worker for treatment of injuries sustained if liability is accepted by the insurer."

**Section 3.** Section 44-1-511, MCA, is amended to read:

**"44-1-511. Payment of salary benefit to officers injured in performance of duty.** ~~(1)~~ A member of the highway patrol who, in the performance of ~~his~~ the member's duties, suffers an injury ~~which~~ that necessitates medical or other remedial treatment and ~~which~~ that renders ~~him~~ the member unable to perform ~~his~~ the member's duties ~~shall~~ must be paid the full amount of ~~his~~ the member's regular salary as a salary benefit until one of the following occurs:

~~(a) He~~ (1) the member ceases to be disabled;:

~~(b) A~~ (2) a period of 1 year elapses after the date of the injury;:

~~(c) Although~~ (3) although disabled, ~~he~~ the member is ordered returned to light duty by the chief of the highway patrol;:

~~(d) Although~~ (4) although disabled, ~~he~~ the member accepts a transfer position within the department of justice; or

~~(e) He~~ (5) the member waives ~~his~~ the benefit.

~~(2) The department of justice shall set off the amount of any workers' compensation award actually received against the salary benefit payable under this section."~~

NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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