

Department of Finance and Administration

Legislative Impact Statement

Bill: SB921

Amendment Number: H1

Bill Subtitle: CONCERNING THE REPAYMENT OF FEES THAT ARE OWED RELATED TO COURT-ORDERED REPRESENTATION BY THE PUBLIC DEFENDER.

Basic Change :

Senator E. Williams

Amendment H-1 deletes language that attached a lien to the person's state income tax refund. As amended, the bill allows the Arkansas Public Defender Commission to file a claim for a setoff against a person's state income tax refund to collect a debt. This setoff process is the same process followed by other agencies under current state law. The amendment also adds the Arkansas Public Defender Commission as a claimant agency entitled to use the income tax refund setoff process.

A person must complete a certificate of indigence to be represented by a public defender for certain offenses. The certificate is a legally binding contract and shall contain a notice that the person's state income tax refund, legal settlements or favorable verdicts, lottery winnings, or any moneys or property forfeited by the state shall be intercepted to satisfy the debt ordered by the court for the cost of the public defender. The bill also allows recovery of fees through use of the income tax setoff process from those who claim to be indigent and are later found not to be indigent

Revenue Impact :

None

Taxpayer Impact :

A taxpayer who requires a public defender may be subject to having their state income tax refund setoff to pay a judgment ordered by the court for the cost of the public defender.

Resources Required :

None

Time Required :

Adequate time is provided.

Procedural Changes :

Computer system will need to be updated to include the Arkansas Public Defender Commission as a claimant agency.

Other Comments :

The amendment resolves a technical issue raised by DFA. The original bill would have resulted in state law containing two separate processes for state agencies to seize a person's income tax refund to pay a debt. Having two processes would have created multiple problems. This amendment provides that debts due as a result of this bill will be collected from individual income tax refunds using the income tax refund setoff process established in current law and used by other state agencies.

Legal Analysis :

Amendment H-1 deletes the provision authorizing the attachment of a lien to a defendant's wages and state income tax refund to recover public defender legal fees and costs. As amended, the bill now includes as an income tax setoff claimant agency the Arkansas Public Defender Commission (Commission), and the bill requires the Commission to file a claim for a setoff in compliance with the current setoff statutes.