

District Court (Protection of Judgment Debtors with Disabilities) Amendment Bill

Member's Bill

Explanatory note

General policy statement

This Bill amends the District Court Act 2016 (the **principal Act**) to prohibit the seizure of goods of a judgment debtor with disability, where the item proposed to be seized is necessary for the judgment debtor's care, support, or independence.

At present the principal Act requires good judgment to be exercised by bailiffs to act fairly and reasonably. This does not prohibit bailiffs seizing property that enables independence, such as mobility vehicles.

Section 21 of the New Zealand Bill of Rights Act 1990 does not provide sufficient protection in the circumstances provided by the Bill as the application of this provision is far too vague for disabled persons to feel that they are properly secured and protected.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause and provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 identifies the District Court Act 2016 as the Act being amended (the **principal Act**).

Clause 4 amends section 167 of the principal Act to prohibit the seizure of goods of a judgment debtor with a disability, where the item proposed to be seized is necessary for the judgment debtor's care, support, or independence.

Clause 5 amends section 168 of the principal Act to prohibit the immobilisation of a vehicle where the vehicle is needed by a judgment debtor with a disability for his or

her care or support or to promote his or her inclusion and participation in society, and independence.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the District Court (Protection of Judgment Debtors with Disabilities) Amendment Act **2020**.

2 Commencement

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This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the District Court Act 2016 (the **principal Act**).

4 Section 167 amended (Warrant to seize property)

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(1) After section 167(2)(a)(ii), insert:

(iii) in the case of the judgment debtor with a disability, any item that is necessary for his or her care or support, independence, or to promote his or her inclusion and participation in society (for

example any mobility device, specially adapted motor vehicle, or
medical equipment)

(2) After section 167(4), insert:

(5) In this section,—

disability has the same meaning as in section 21(1)(h) of the Human Rights Act 1993 5

mobility device has the same meaning as in section 2 of the Land Transport Act 1998.

5 Section 168 amended (Immobilisation of motor vehicles)

After section 168(2), insert: 10

(2A) A vehicle that is needed by a judgment debtor with a disability for his or her care or support, independence, or to promote his or her inclusion and participation in society, must not be immobilised under subsection (1).