

Protecting Patients' Homes & Livelihoods from Aggressive Collection Actions



#ENDMEDICALDEBT

What is S6522/A7363?

This bill would protect patients from extreme medical debt collection practices by **prohibiting health care providers from securing liens on a patient's home or garnishing a patient's wages in the wake of a civil court judgment**. Thirteen states protect homes from credit liens and others protect patients with medical debt from wage garnishments. The proposal to ban liens on patients' homes has been endorsed by the *Syracuse Post*¹ and the *Daily News*² editorial boards in November 2021.

New York is the most expensive state to get health care. And medical debt is a serious concern here, where over half of New Yorkers struggle with health care affordability, often leading them to delay or avoid care.³ In many communities, such as Albany, Erie, Monroe, and Westchester, **people of color are more than twice as likely to have medical debt than white residents**.⁴ Nationally, more than half (58 percent) of all collection actions are for medical debt.⁵



Most New York hospitals and medical providers do not sue patients, or only rarely do so. This bill is necessary because a **significant minority of nonprofit hospitals routinely sue patients**, resulting in over 52,000 court cases against patients between 2015 and 2020, over 5,000 during the pandemic, despite the annual state allocation of \$1 billion to offset their uncompensated care losses.⁶

When a provider secures a court judgment for a medical debt, it may file a lien on the debtor's home and garnish 10 percent of their gross wages. Hospitals report to the Department of Health that they secure approximately **2,400 liens against patients' homes annually**.⁷ Research indicates that patients whose wages are garnished work low-wage jobs in retail, big box stores, restaurants and health care.⁸



The #EndMedicalDebt Campaign is a project of the Community Service Society of New York.

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What is the harm of having a lien placed on a patient's home?

A lien appears on banking records, making it very difficult for a homeowner to secure credit – such as a home equity loan to fix burst pipes in the winter – and hampers their ability to sell or refinance their home. Moreover, research indicates that **medical debt is directly connected to housing insecurity**.

Which part of the state is most impacted?

The counties with the most liens tend to be rural and poor. The practice appears to disproportionately occur in Western and Central New York, although it also happens in Long Island. **Nearly 80 percent of liens are taken in counties with median incomes below 300 percent of the poverty level** for a family of four. For residents in these counties, home ownership is crucial to their family's economic security and physical health.⁹

What is the current law in New York?

New York's homestead exemption **only protects a portion of the value of a debtor's home**, ranging from \$75,000-\$150,000, depending on the region.¹⁰ New York's wage garnishment laws are also very draconian, permitting a creditor to seize 10% of a worker's gross wages.¹¹

Which states prohibit filing liens on a debtor's primary home?

There are **10 states and territories that prohibit liens on primary residences** including: Arkansas, Florida, Iowa, Kansas, Maryland, Oklahoma, South Dakota, Texas, Washington D.C. and Puerto Rico.¹² Three other states prohibit the filing of liens against the homes of people who are ill or have disabilities (Louisiana, Ohio, and Virginia).¹³

What about rich patients with luxury assets like second homes?

Research indicates that the people being sued for medical bills are **disproportionately low-income and people of color**.¹⁴ Medical providers will still be able to sue patients and secure court judgments against them. This bill simply seeks to protect patients' homes and their wages. Destabilizing a patient's housing and finances ensures that they will be less likely to pay off a judgment in the future.

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References

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- ³ Altarum Healthcare Value Hub and Community Service Society of New York, "New Yorkers Struggle to Afford High Healthcare Costs; Support a Range of Government Solutions Across Party Lines," Data Brief No. 37, March 2019, <https://www.healthcarevaluehub.org/advocate-resources/publications/new-yorkers-struggle-afford-high-healthcare-costs-support-range-government-solutions-across-party-lines>.
- ⁴ Urban Institute, "Debt in America: An Interactive Map," March 31, 2021, https://apps.urban.org/features/debt-interactive-map/?type=overall&variable=pct_w_medical_debt_in_collections&state=36
- ⁵ Consumer Financial Protection Bureau, "Market Snapshot: Third-Party Debt Collections Tradeline Reporting," July 2019 available at: https://files.consumerfinance.gov/f/documents/201907_cfpb_third-party-debt-collections_report.pdf.
- ⁶ B. Rosenthal, "One Hospital System Sued 2,500 Patients After Pandemic Hit," New York Times, January 5, 2021, <https://www.nytimes.com/2021/01/05/nyregion/coronavirus-medical-debt-hospitals.html>
- ⁷ E. Benjamin & A. Dunker, "Discharged Into Debt: Nonprofit Hospitals File Liens on Patients' Homes," Community Service Society of NY, November 2021, <https://www.cssny.org/publications/entry/discharged-into-debt-nonprofit-hospitals-file-liens-on-patients-homes>
- ⁸ A. Dunker & E. Benjamin, "Discharged Into Debt: Medical Debt and Racial Disparities in Albany County," Community Service Society of NY, March 2021, <https://www.cssny.org/publications/entry/discharged-into-debt-medical-debt-and-racial-disparities-in-albany-county>; B. Bump, Albany Times Union, "Pandemic hasn't stopped area's hospitals from suing patients over unpaid bills," March 18, 2021, <https://www.timesunion.com/news/article/Pandemic-hasn-t-stopped-Capital-Region-hospitals-16036542.php>
- ⁹ *Supra*, n. 6.
- ¹⁰ N.Y.C.P.L.R. §5201.
- ¹¹ N.Y.C.P.L.R. §5231.
- ¹² Arkansas (Ark. Const. art. 4); Washington DC (D.C. Code § 15-501(a)(14)), Florida (Fla. Stat. Ann. §§222.01, 222.02, & Fla. Const. Art. X §4); Iowa (Iowa Code Ann. § 561.156); Kansas (Kan. Stat. Ann. §60-2301); Maryland (Md Health Code §19-214.1); Oklahoma (31 Okla. St. Ann §2); Puerto Rico (PR Home Protection Act No. 195); South Dakota (S.D. Cod. Laws §43-45-3); and Texas (Tex Const. Art XVI, §§50, 51 & Tex Prop. Code §§41.001-.002).
- ¹³ Ohio (Ohio Rev. Code Ann. §§ 2329.66(A)(1)(a), 2329.661); Louisiana (La. Rev. Stat. Ann. § 20:1); and West Virginia (W. Va. Code § 38-9-3).
- ¹⁴ *Supra*, n. 8.