

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1447

A bill to amend 1982 PA 295, entitled
"Support and parenting time enforcement act,"
by amending sections 25a, 25b, 25c, 25d, 25e, 25f, 25g, 25h, and
25i (MCL 552.625a, 552.625b, 552.625c, 552.625d, 552.625e,
552.625f, 552.625g, 552.625h, and 552.625i), sections 25a and 25b
as amended and sections 25c, 25d, 25e, 25f, 25g, 25h, and 25i as
added by 2002 PA 565.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 25a. (1) The amount of past due support that accrues
2 under a judgment as provided in section 3 or under the law of
3 another state constitutes a lien in favor of the recipient of
4 support against the real and personal property of a payer, ~~other~~
5 ~~than financial assets pledged to a financial institution as~~
6 ~~collateral or financial assets to which a financial institution~~
7 ~~has a prior right of setoff or other lien.~~ including, but not

1 limited to, money to be paid as a distribution from a decedent's
2 estate; as the result of a claim for negligence, personal injury,
3 or death; under an arbitration award; under a settlement of or
4 judgment issued in a civil action; or as compensation under a
5 worker's compensation order, settlement, redemption order, or
6 voluntary payment. The lien is effective at the time that the
7 support is due and unpaid and shall continue until the amount of
8 past due support is paid in full or the lien is terminated by the
9 title IV-D agency.

10 (2) Liens that arise in other states shall be accorded full
11 faith and credit when the requirements of section 25b or 25c are
12 met.

13 (3) A lien created under subsection (1) is subordinate to a
14 prior perfected lien. All liens ~~created~~ **that arise** under
15 subsection (1) and described in subsection (2) have equal
16 priority.

17 (4) Before a lien is perfected or levied under this act, the
18 title IV-D agency shall send a notice to the payer subject to the
19 support order informing the payer of the imposition of liens by
20 operation of law and that the payer's real and personal property
21 can be encumbered or seized if an arrearage accrues in an amount
22 that exceeds the amount of periodic support payments payable
23 under the payer's support order for the time period specified in
24 this act.

25 (5) The title IV-D agency or another person required to
26 provide notice under this section or sections 25b to 25i shall
27 provide notice by paper, unless the person to be notified agrees

1 to notice by other means. The title IV-D agency or other person
2 providing notice under this section or sections 25b to 25i shall
3 complete and preserve proof of service of the notice in a form
4 substantially conforming to the requirements for proof of service
5 under the Michigan court rules.

6 (6) A lien under subsection (1) does not arise against any of
7 the following:

8 (a) A financial asset pledged to a financial institution as
9 collateral.

10 (b) A financial asset to which a financial institution has a
11 prior right of setoff or other lien.

12 (c) Property or an allowance described in sections 2401 to
13 2404 of the estates and protected individuals code, 1998 PA 386,
14 MCL 700.2401 to 700.2404.

15 (d) Fifty percent of the amount of compensation due to a
16 payer under a worker's compensation order, settlement, redemption
17 order, or voluntary payment.

18 (e) That portion of money to be paid as a distribution from a
19 decedent's estate; as the result of a claim for negligence,
20 personal injury, or death; under an arbitration award; under a
21 settlement or judgment issued in a civil action; or as
22 compensation under a worker's compensation order, settlement,
23 redemption order, or voluntary payment that is owed for any of
24 the following:

25 (i) Attorney fees.

26 (ii) Court costs and other litigation costs, including, but
27 not limited to, medical examination costs, expenses for reports,

1 deposition fees, court reporter fees, and record copy fees.

2 (iii) The medicaid program under the social welfare act, 1939
3 PA 280, MCL 400.1 to 400.119b, unless medicaid is subordinated to
4 child support under federal law.

5 (iv) Medical services or a reimbursement for a payment made
6 for medical services either to or by an insurer, health
7 maintenance organization, or nonprofit health care corporation.
8 For the purposes of compensation under a worker's compensation
9 order, settlement, redemption order, or voluntary payment, as
10 used in this subparagraph, "medical services" means services as
11 described and regulated under sections 315 and 319 of the
12 worker's disability compensation act of 1969, 1969 PA 317, MCL
13 418.315 and 418.319, and the rules promulgated under those
14 sections.

15 (v) An amount to reimburse an insurance company for the
16 expense incurred by the insurance company in responding to a lien
17 and levy under sections 25b to 25i. A reimbursement amount under
18 this subparagraph shall not exceed the actual expense or \$50.00,
19 whichever is less, for each lien and levy or for each payment
20 under a lien and levy.

21 (vi) Other costs related to the arbitration, civil action, or
22 worker's compensation order, settlement, redemption order, or
23 voluntary payment.

24 (vii) For reimbursements to which an employer or carrier is
25 entitled under section 827 of the worker's disability
26 compensation act of 1969, 1969 PA 317, MCL 418.827.

27 (viii) For vocational rehabilitation costs, reimbursements,

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1 or credits incidental to long- or short-term disability programs
2 or to pension or welfare benefit funds.

3 (ix) For a medicare set aside account for future medical care
4 or for future medicaid, unless medicare or medicaid is
5 subordinated to child support under federal law.

6 (f) Money to be paid under an insurance policy for the repair
7 or replacement of real or tangible personal property.

8 (g) Money to be paid for allowable expenses that are payable
9 as benefits under section 3107(1)(a) [and for expenses under section
3107(1)(c)] of the insurance code of
10 1956, 1956 PA 218, MCL 500.3107.

11 (7) The title IV-D agency does not have the authority to
12 alter an amount itemized in a redemption order. A lien that
13 arises under this act and a levy of that lien only affect that
14 portion, as prescribed in this section, of the payment due the
15 payer under a redemption order. A carrier shall not use the
16 enforcement of a lien and levy under this act as the basis for
17 freezing or otherwise refusing to pay out an amount itemized in a
18 redemption order that is not affected by the lien and levy under
19 this act.

20 (8) As used in this section and sections 25b to 25i:

21 (a) "Carrier" means any of the following:

22 (i) "Carrier" as that term is defined in section 601 of the
23 worker's disability compensation act of 1969, 1969 PA 317, MCL
24 418.601.

25 (ii) A fund created under section 501 of the worker's
26 disability compensation act of 1969, 1969 PA 317, MCL 418.501.

27 (iii) The property and casualty guaranty association required

1 to be maintained by section 7911 of the insurance code of 1956,
2 1956 PA 218, MCL 500.7911.

3 (b) "Insurer" means that term as defined in section 106 of
4 the insurance code of 1956, 1956 PA 218, MCL 500.106.

5 Sec. 25b. (1) A remedy provided by this section is
6 cumulative and does not affect the availability of another remedy
7 under this act or other law.

8 (2) Except for a financial asset, **money to be paid, or**
9 **compensation** to which section 25c applies, the title IV-D agency
10 may perfect a lien created under section 25a upon the real or
11 personal property of the payer when an arrearage has accrued in
12 an amount that exceeds 2 times the monthly amount of periodic
13 support payments payable under the payer's support order.

14 (3) If the arrearage under subsection (2) is reached and the
15 title IV-D agency has determined that the delinquent payer holds
16 real or personal property, other than a financial asset, **money to**
17 **be paid, or compensation** to which section 25c applies, the title
18 IV-D agency may perfect the lien. The title IV-D agency shall
19 perfect a lien on property to which this section applies in the
20 same manner in which another lien on property of the same type is
21 perfected.

22 (4) The title IV-D agency shall notify the payer when the
23 title IV-D agency has perfected a lien against real or personal
24 property of the payer. The notice shall be sent by ordinary mail
25 to the payer's last known address, and a copy of the notice shall
26 be sent by ordinary mail to the recipient of support. A notice
27 under this subsection shall include all of the following:

1 (a) The amount of the arrearage.

2 (b) That a lien is in effect on the real or personal property
3 of the payer.

4 (c) That the property is subject to seizure unless the payer
5 responds by paying the arrearage or requesting a review within 21
6 days after the date of mailing the notice.

7 (d) That, at the review, the payer may object to the lien and
8 to proposed action based on a mistake of fact concerning the
9 overdue support amount or the payer's identity.

10 (e) That, if the payer believes that the amount of support
11 ordered should be modified because of a change in circumstances,
12 the payer may file a petition with the court for modification of
13 the support order.

14 (5) Within 21 days after the date on which the notice
15 described in subsection (4) is mailed to a payer, the payer may
16 request a review on the lien and the proposed action. If the
17 payer requests a review under this subsection, the title IV-D
18 agency shall conduct the review within 14 days after the date of
19 the request.

20 (6) If, at the review, the payer establishes that the lien is
21 not proper because of a mistake of fact, the title IV-D agency
22 shall terminate **or modify** the lien and, within 7 days, notify the
23 applicable entity that the lien is terminated **against all or a**
24 **portion of the property**.

25 (7) If the payer fails to request a review, to appear for a
26 review, or to establish a mistake of fact, the title IV-D agency
27 may collect the arrearage by levy upon any property belonging to

1 the payer as provided in this section. The title IV-D agency
2 shall notify the payer at the review or by written notice of its
3 intent to levy.

4 (8) To enforce a lien on real property or personal property,
5 the title IV-D agency may sell the real property in the manner
6 provided by law for the judicial foreclosure of mortgage liens;
7 apply to the circuit court for an order to execute the judgment,
8 to appoint a receiver of the real and personal property subject
9 to the lien, and to order the property and its income to be
10 applied to the amount of the judgment; or take any other
11 appropriate action to enforce the judgment. The title IV-D
12 agency shall mail a copy of orders under this subsection to the
13 payer and recipient of support at his or her last known address.

14 (9) A payer may request that the title IV-D agency terminate
15 a lien against the real and personal property of the payer on the
16 basis that the payer is no longer in arrears. If the payer is no
17 longer in arrears, the title IV-D agency shall terminate the lien
18 in accordance with law.

19 (10) An entity is not liable under any federal or state law
20 to any person for any disclosure of information to the title IV-D
21 agency under this section or for any other action taken in good
22 faith to comply with the requirements of this section.

23 Sec. 25c. (1) A remedy provided by this section is
24 cumulative and does not affect the availability of another remedy
25 under this act or other law.

26 (2) ~~If a payer's financial assets held by a financial~~
27 ~~institution are subject to a lien under section 25a and an~~

~~1 arrearage has accrued in an amount that exceeds 2 times the~~
~~2 monthly amount of periodic support payments payable under the~~
~~3 payer's support order, the title IV-D agency may levy against the~~
~~4 payer's financial assets held by a financial institution. If an~~
5 arrearage has accrued in an amount that exceeds 2 times the
6 monthly amount of periodic support payments payable under a
7 payer's support order, the title IV-D agency may levy against any
8 of the following items subject to a lien under section 25a to
9 which the payer is entitled:

10 (a) Financial assets held by a financial institution.

11 (b) Money to be paid by an insurer as the result of a claim
12 for negligence, personal injury, or death, under an arbitration
13 award, or under a settlement of or judgment issued in a civil
14 action.

15 (c) Compensation under a worker's compensation order,
16 settlement, redemption order, or voluntary payment.

17 (3) To levy against a payer's financial assets, **money to be**
18 **paid, or compensation**, the title IV-D agency shall serve the
19 financial institution holding the financial assets, **the insurer,**
20 **or the carrier** with a notice of the lien and levy, directing the
21 financial institution, **insurer, or carrier** to freeze ~~the~~
22 ~~payer's~~ **those** financial assets ~~held by the financial~~
23 ~~institution~~ **or that money or compensation.** ~~—(3)—~~ The office of
24 child support, in consultation with the state court
25 administrative office, shall create the form that is required for
26 the notice to a financial institution, **insurer, or carrier** under
27 **this** subsection. ~~—(2)—~~ The form shall include, or provide for

1 inclusion of, at least all of the following:

2 (a) The levy amount.

3 (b) Information that enables the financial institution,
4 **insurer, or carrier** to link the payer with his or her financial
5 assets, **money to be paid, or compensation** and to notify the
6 payer.

7 (c) Information on how to contact the title IV-D agency.

8 (d) Statements setting forth the rights and responsibilities
9 of the financial institution, **insurer, or carrier** and payer.

10 (4) A title IV-D agency may withdraw a levy under this
11 section at any time before the circuit court considers or hears
12 the matter in an action filed under section 25f. The title IV-D
13 agency shall give notice of the withdrawal to the payer and
14 financial institution, **insurer, or carrier**. Upon receiving
15 notice of a withdrawal of a levy, the financial institution,
16 **insurer, or carrier** shall release the payer's financial assets,
17 **money to be paid, or compensation** by the close of business on 1
18 of the following days:

19 (a) If the notice is received before noon, the first business
20 day after the business day on which the notice is received.

21 (b) If the notice is received at noon or later, the second
22 business day after the business day on which the notice is
23 received.

24 Sec. 25d. (1) A financial institution, **insurer, or carrier**
25 incurs no obligation or liability to a depositor, account holder,
26 or other person arising from the furnishing of information under
27 sections 25c to 25i or from the failure to disclose to a

1 depositor, account holder, or other person that the person's name
2 as a person with an interest in the financial assets, **money to be**
3 **paid, or compensation** was included in the information provided.

4 (2) A financial institution, **insurer, or carrier** incurs no
5 obligation or liability to the title IV-D agency or another
6 person for an error or omission made in good faith compliance
7 with sections 25c to 25i.

8 (3) A financial institution, **insurer, or carrier** incurs no
9 obligation or liability for blocking, freezing, placing a hold
10 upon, forwarding, or otherwise dealing with a person's financial
11 assets, **money to be paid, or compensation** in response to a lien
12 or levy imposed or information provided under sections 25c to
13 25i.

14 (4) A financial institution, **insurer, or carrier** is not
15 obligated to block, freeze, place a hold upon, forward, or
16 otherwise deal with a person's financial assets, **money to be**
17 **paid, or compensation** until served with the notice of levy in
18 accordance with section 25c. A financial institution, **insurer,**
19 **or carrier** that forwards financial assets, **money to be paid, or**
20 **compensation** to the title IV-D agency in response to a levy under
21 section 25c is discharged from any obligation or liability to the
22 depositor, account holder, or other person with an interest in
23 the financial assets, ~~that are~~ **money to be paid, or**
24 **compensation** forwarded to the title IV-D agency.

25 Sec. 25e. (1) When a financial institution, **insurer, or**
26 **carrier** receives a notice of levy **under section 25c** on a payer's
27 financial assets held by the financial institution; ~~under~~

1 ~~section 25c~~ money to be paid by an insurer as the result of a
2 claim for negligence, personal injury, or death, under an
3 arbitration award, or under a settlement of or judgment issued in
4 a civil action; or compensation under a worker's compensation
5 order, settlement, redemption order, or voluntary payment, the
6 financial institution, insurer, or carrier shall freeze those
7 financial assets, money to be paid, or compensation. If the
8 payer's financial assets, ~~held by a financial institution~~
9 ~~exceed~~ money to be paid, or compensation exceeds the levy
10 amount, the financial institution, insurer, or carrier shall
11 freeze those financial assets, or that money to be paid or
12 compensation, up to the levy amount. A financial institution,
13 insurer, or carrier shall execute the freeze of a payer's
14 financial assets, money to be paid, or compensation under this
15 section by the close of business on 1 of the following days:

16 (a) If the notice is received before noon, the first business
17 day after the business day on which the notice is received.

18 (b) If the notice is received at noon or later, the second
19 business day after the business day on which the notice is
20 received.

21 (2) After complying with subsection (1), a financial
22 institution, insurer, or carrier shall give notice of that
23 compliance to the title IV-D agency ~~—~~ and the payer. ~~—and~~ In
24 addition, a financial institution shall notify each other person
25 with an interest in the financial assets as shown in the
26 financial institution's records. A financial institution's,
27 insurer's, or carrier's notice to a payer under this subsection

1 shall include a copy of the title IV-D agency notice to the
2 financial institution, **insurer, or carrier.**

3 Sec. 25f. (1) A payer whose financial assets are, **or money**
4 **to be paid or compensation is,** levied on under section 25c or ~~—a~~
5 **another** person with an interest in ~~those~~ **the financial** assets
6 may challenge the levy by submitting a written challenge with the
7 title IV-D agency at the location specified in the title IV-D
8 agency notice. A payer, or other person with an interest **in the**
9 **financial assets,** must submit a written challenge under this
10 section within 21 days after the financial institution, **insurer,**
11 **or carrier** sends the payer a copy of the title IV-D agency notice
12 as required by section 25e. A challenge to a levy under section
13 25c is governed by this act and is not subject to chapter 4 of
14 the administrative procedures act of 1969, 1969 PA 306,
15 MCL 24.271 to 24.287. A payer, or other person with an interest
16 **in the financial assets,** who submits a challenge under this
17 subsection may withdraw the challenge at any time by giving
18 notice of the withdrawal to the title IV-D agency.

19 (2) If the title IV-D agency receives a written challenge
20 from a payer, or other person with an interest **in the financial**
21 **assets,** within the time limit required by subsection (1), the
22 title IV-D agency shall notify the financial institution,
23 **insurer, or carrier** about the challenge and, within 7 days, shall
24 review the case with the challenger. The title IV-D agency shall
25 consider only a mistake in the payer's identity or in the amount
26 of the payer's past due support, or another mistake of fact, as
27 cause to release or modify the levy. If the title IV-D agency

1 determines that a mistake of fact occurred, the title IV-D agency
2 shall do 1 of the following:

3 (a) If the mistake is the payer's identity or that the payer
4 does not owe past due support in an amount equal to or greater
5 than 2 times the payer's monthly support amount under a support
6 order, notify the financial institution, **insurer, or carrier** and
7 the payer that the levy is released.

8 (b) If the payer does owe past due support in an amount equal
9 to or greater than 2 times the payer's monthly support amount
10 under a support order, but the amount in the notice to levy is
11 more than the payer owes, notify the payer of the corrected
12 amount.

13 (c) If the mistake concerns a fact other than those described
14 in subdivisions (a) and (b), take action appropriate to the
15 mistake.

16 (3) If the title IV-D agency finds no mistake of fact, the
17 title IV-D agency shall notify the payer or other person with an
18 interest of that finding.

19 (4) If the payer, or other person with an interest **in the**
20 **financial assets**, disagrees with the title IV-D agency review
21 determination under this section, the payer or other person with
22 an interest may challenge the levy under section 25c by filing an
23 action in the circuit court that issued a support order that is
24 an underlying basis for the levy. A payer, or other person with
25 an interest **in the financial assets**, must file an action under
26 this subsection within 21 days after the title IV-D agency sends
27 notice of its review determination and shall give the title IV-D

1 agency notice of the action.

2 (5) If an action is not filed in the circuit court within the
3 time limit required by subsection (4), the title IV-D agency
4 shall notify the financial institution, **insurer, or carrier,**
5 directing the financial institution, **insurer, or carrier** to act
6 in accordance with the title IV-D agency review determination
7 under this section. If an action is filed in the circuit court
8 within the time limit prescribed in subsection (4), the title
9 IV-D agency shall notify the financial institution, **insurer, or**
10 **carrier,** directing the financial institution, **insurer, or carrier**
11 to act in accordance with the court decision.

12 Sec. 25g. (1) A financial institution, **insurer, or carrier**
13 that receives a notice of levy under section 25c shall forward
14 money in the amount of past due support as stated in the notice,
15 or in the corrected amount if notified of a corrected amount, to
16 the state disbursement unit, along with information necessary to
17 identify the payer as required by the notice.

18 (2) A financial institution, **insurer, or carrier** shall
19 forward money as required by subsection (1) no sooner than the
20 next day and no later than the seventh day after 1 of the
21 following takes place:

22 (a) The financial institution, **insurer, or carrier** notifies
23 the payer and the title IV-D agency that the payer's financial
24 assets are, **or money to be paid or compensation is,** frozen as
25 required by section 25e and has not received, within 28 days
26 after the day on which the financial institution, **insurer, or**
27 **carrier** sent the notices, a notice from the title IV-D agency

1 that the payer, or another person with an interest in the **payer's**
2 financial assets, has submitted a challenge to the levy under
3 section 25f.

4 (b) The financial institution, **insurer, or carrier** receives,
5 within the time limit prescribed in subdivision (a), a notice
6 from the title IV-D agency that the payer, or another person with
7 an interest in the **payer's** financial assets, submitted a
8 challenge to the levy and receives the subsequent title IV-D
9 agency notice required by section 25f, directing the financial
10 institution, **insurer, or carrier** to act in accordance with either
11 the title IV-D agency review determination or the circuit court
12 decision.

13 (3) If, in order to forward sufficient money to the SDU, the
14 financial institution must convert 1 or more financial assets to
15 cash, the financial institution shall execute the conversion,
16 assessing a resulting fee or other cost or penalty against the
17 payer. If the payer's financial assets are insufficient to pay
18 the past due support amount plus resulting fees and other costs
19 or penalties, the financial institution may deduct the fees,
20 costs, and penalties before forwarding the balance of the money.

21 Sec. 25h. (1) If an action is filed in circuit court within
22 the time limit prescribed in section 25f, the circuit court shall
23 review the matter de novo. The action is governed by this
24 section and the Michigan court rules. The circuit court review
25 is not limited to mistakes of fact.

26 (2) All of the following apply in an action governed by this
27 section:

1 (a) The circuit court shall only address the issues of the
2 propriety of the levy and whether the levy amount is correct.

3 (b) The circuit court shall not admit evidence or consider an
4 issue that is related to custody, parenting time, or the amount
5 of support under a support order unless that evidence is related
6 to the levy against a payer's financial assets, **money to be paid,**
7 **or compensation.**

8 (c) The circuit court shall not modify a support order. A
9 court finding regarding a monthly or past due support amount does
10 not modify the underlying support order.

11 Sec. 25i. (1) If, after a financial institution forwards
12 money to the state disbursement unit, all of the forwarded money
13 is returned to the payer due to a mistake of fact or court order,
14 the title IV-D agency shall reimburse the payer for a fee, cost,
15 or penalty that the financial institution assessed against the
16 payer under section 25g. ~~In addition, the~~ **The title** IV-D
17 agency shall **also** compensate the payer for the amount of interest
18 that the financial assets would have earned had they not been
19 converted and forwarded to the SDU, to the extent that the
20 interest can be determined with a reasonable degree of
21 certainty.

22 (2) If the total amount of past due support the payer owes
23 under all support orders subject to levy under section 25c is
24 more than the amount of money a financial institution, **insurer,**
25 **or carrier** forwards the SDU under section 25g, the SDU shall
26 allocate the money among those support orders by multiplying the
27 total amount of money forwarded by the percentages arrived at by

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1 dividing the past due support amount under each of those support
2 orders by the total of the past due support amounts under all of
3 those support orders.

4 Enacting section 1. This amendatory act takes effect
5 January 1, 2006.

6 Enacting section 2. Before January 31, 2006, the title IV-D
7 agency and the ~~[bureau of worker's compensation agency]~~ shall report to
8 the standing committees of the senate and house of
9 representatives with primary responsibility for legislation
10 concerning child support enforcement on the status of, efficacy
11 of, and problems that have arisen in the implementation of the
12 provisions of the support and parenting time enforcement act that
13 were amended or added by this amendatory act and in the
14 implementation of the related interagency agreement. In
15 addition, the ~~[bureau of worker's compensation agency]~~ shall report to
16 those same standing committees the effect that implementation has
17 had on efficiency in the management of worker's compensation case
18 settlements and redemptions.