

Legislative Analysis



Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

CHILD SUPPORT LIENS

Senate Bill 1447 (Substitute S-2)
Sponsor: Sen. Bev Hammerstrom

Senate Bill 1448 (Substitute S-1)
Sponsor: Sen. Bruce Patterson

Senate Bill 1449 (Substitute S-1)
Sponsor: Sen. Tony Stamas

Senate Bill 1450 (Substitute S-1)
Sponsor: Sen. Gerald Van Woerkom

Senate Committee: Families and Human Services
House Committee: Judiciary

Complete to 11-29-04

A SUMMARY OF SENATE BILLS 1447-1450 AS PASSED BY THE SENATE

The bills would amend various statutes to do all of the following:

- Provide that a lien on a support payer's property for past due support would include an inheritance; a claim for negligence, personal injury, or death; funds due from a settlement or arbitration award issued in a civil action; or compensation under a worker's compensation, order, settlement, redemption order, or voluntary payment, subject to certain exceptions.
- List assets and monies of a support payer that would be protected from a lien.
- Require certain reports to be made to the legislature regarding the bill's impact on the Support and Parenting Time Enforcement Act and an interagency agreement on the management of worker's compensation case settlements and redemptions.
- Require a Title IV-D agency to notify the "child support lien network" (CSLN) when a payer's arrearage exceeded twice the monthly payment amount.
- Allow an insurance company to cooperate with a Title IV-D agency and the CSLN to identify people subject to child support arrearages who may be entitled to certain liability insurance settlements or awards.
- Require a decedent's personal representative to notify the Friend of the Court (FOC) of the identity of the decedent's heirs and devisees.

Title IV-D of the Federal Social Security Act requires states to have a program to secure child support from legal parents with the financial ability to pay. Each state must establish methods for locating absent parents, establishing paternity, and collecting child support payments. Title IV-D requires the state program to provide services to recipients of public assistance and to others, upon request.

The state agency that administers the child support program is designated as the Title IV-D agency. The Office of Child Support Services, within the Family Independence Agency, is Michigan's Title IV-D agency. Under the Parenting Time Enforcement Act, however, "Title IV-D agency" means the agency in Michigan performing the functions under Title IV-D, and includes a person performing those functions under contract, including an FOC office or a prosecuting attorney.

(See Background for information on the child support lien network.)

Senate Bill 1447 would amend the Support and Parenting Time Enforcement Act (MCL 552.625a). Under the Support and Parenting Time Enforcement Act, an amount of past due support that accrues under a judgment (a support order or court order in a domestic relations matter), or under the law of another state, constitutes a lien in favor of the support recipient against the real and personal property of the payer. The bill would, among other things, do the following:

- Include as assets subject to a lien, money to be paid as a distribution from a decedent's estate; as the result of a claim for negligence, personal injury, or death; under an arbitration award; under a settlement of or judgment issued in a civil action; or as compensation under a worker's compensation order, settlement, redemption order, or voluntary payment.
- Provide numerous exceptions for certain categories of money to be paid and/or compensation for which a lien could not be attached.
- Require a payer, when requesting a review of a lien, to include an affidavit and documentation listing the amounts the payer claims would be exempted from a lien under the bill.
- Require the Title IV-D agency to terminate or modify the lien if the payer established at the review that lien was not proper or because the lien did not arise against all or a portion of the property. (Changes are underlined.) Also, the agency would have to notify the payer of any claim amounts of suspected lien exemptions found to be valid, itemized by category.
- Expand the assets subject to a lien when an arrearage has accrued in an amount exceeding two times the monthly amount of periodic support payments so as to include financial assets held by a financial institution and money to be paid by an insurer as the result of a claim for negligence, personal injury, or death; under an arbitration award, or under a settlement of or judgment issued in a civil action; or compensation under a worker's compensation order, settlement, redemption order, or voluntary payment. In addition, a payer could base a challenge to release or modify a levy on the fact that the lien did not arise against all or a portion of the

property exempted under the bill as long as documentation was included with the challenge.

- Define the terms "carrier" and "insurer" and extend the same freedom from incurring liability or obligation in various situations as is currently extended to financial institutions.
- Apply procedures for notifying a payer of levied financial assets, forwarding money in the amount of past due child support, and paying reimbursement and compensation for levies made in error to funds owed to payers by carriers and insurers as well as financial assets of payers held by financial institutions.
- Require a report to be made to the legislative committees with responsibility for legislation concerning child support enforcement by the Title IV-D agency and the worker's compensation agency, by January 31, 2006. The report would have to address the bill's impact on the Support and Parenting Time Enforcement Act and on the implementation of the related interagency agreement. In addition, the worker's compensation agency would also have to report to the legislative committees the effect that implementation had on efficiency in the management of worker's compensation case settlements and redemptions.

The bill would take effect October 1, 2005.

Senate Bill 1448 would add a new section to the Support and Parenting Time Enforcement Act (MCL 552.24b). The bill would require the Title IV-D agency to notify the CSLN promptly of each payer who had a support arrearage in an amount exceeding twice the monthly amount of periodic support payments payable under the payer's support order. The agency could also notify one or more additional national child support information clearinghouses.

The bill would take effect October 1, 2005.

Senate Bill 1449 would add a new section to the Insurance Code (MCL 500.418). The bill would allow an insurer to cooperate voluntarily with a Title IV-D agency and the CSLN in identifying payers subject to child support arrearages who may be entitled to money to be paid under a liability insurance policy or the liability coverage portion of a multiperil insurance policy.

Senate Bill 1450 would amend the Estates and Protected Individuals Code (MCL 700.3705). Under EPIC, a personal representative (the person administering an estate) must notify the decedent's heirs and devisees of his or her appointment, within 28 days of the appointment. The bill would require the personal representative also to notify the FOC of the county in which the estate was being administered of the identity of the heirs of an intestate estate and the devisees of a testate estate (i.e., the people who would inherit from a decedent who died without a valid will or with a will). The personal representative would have to give this notice at the time of giving notice of his or her appointment.

A personal representative would incur no obligation or liability to the FOC or another person for an error or omission made in good faith compliance with the bill's notice requirement.

The bill would take effect October 1, 2005 and is tie-barred to Senate Bill 1447.

BACKGROUND:

According to information on the Child Support Lien Network's website (<http://www.childsupportliens.com>), the network was established in 1999 by the State of Rhode Island and MAXIMUS, Inc. It combines data from various states' delinquent child support obligor records into one database for the purpose of intercepting insurance settlements owed to delinquent child support obligors.

Participating states pool their delinquent child support obligor information in the CSLN, and the database is matched electronically on a daily basis with claims filed with insurance companies across the country. If a claim matches a delinquent obligor, the insurer gives CSLN the claim information and company contacts, and CSLN alerts the member state. The state then follows up with the insurance company to file the appropriate lien or income withholding order against the future settlement.

At least 16 states currently participate in the CSLN, but Michigan is not among them.

FISCAL IMPACT:

Senate Bill 1447 and Senate Bill 1448 would have an indeterminate fiscal impact on the State. The bills could increase administrative costs if the State's Child Support Program utilizes the increased authority provided by the bills in perfecting liens and levying against certain types of funds received as a result of settlements and claims and from worker's compensation-related payments. These increased costs, however, could be offset to the extent that additional child support collections are achieved through these means, some of which would likely be owed to the State to offset financial assistance payments to custodial parents and their children.

Senate Bill 1450 would have no fiscal impact on the Judiciary.

Legislative Analyst: Susan Stutzky
Fiscal Analysts: Bob Schneider
Marilyn Peterson

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.