

**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,

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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 for a single lien and levy, whichever is less<<, for each lien and levy
or each payment pursuant to a lien and levy>>.

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

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

26 (viii) For vocational rehabilitation costs, reimbursements,
27 or credits incidental to long- or short-term disability programs

1 or to pension or welfare benefit funds.

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

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

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

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

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

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

27 (4) The title IV-D agency shall notify the payer when the

1 title IV-D agency has perfected a lien against real or personal
2 property of the payer. The notice shall be sent by ordinary mail
3 to the payer's last known address, and a copy of the notice shall
4 be sent by ordinary mail to the recipient of support. A notice
5 under this subsection shall include all of the following:

6 (a) The amount of the arrearage.

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

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

12 (d) That, at the review, the payer may object to the lien and
13 to proposed action based on a mistake of fact concerning the
14 overdue support amount or the payer's identity, **or because the**
15 **lien does not arise against all or a portion of the property as**
16 **provided in section 25a(6).**

17 (e) That, if the payer believes that the amount of support
18 ordered should be modified because of a change in circumstances,
19 the payer may file a petition with the court for modification of
20 the support order.

21 (5) Within 21 days after the date on which the notice
22 described in subsection (4) is mailed to a payer, the payer may
23 request a review on the lien and the proposed action. **If the**
24 **payer is requesting the review because the lien does not arise**
25 **against all or a portion of the property as provided in section**
26 **25a(6), the payer shall include with the request an affidavit and**
27 **related documentation setting forth the amount the payer claims**

1 **is exempted under section 25a(6), itemized by category.** If the
2 payer requests a review under this subsection, the title IV-D
3 agency shall conduct the review within 14 days after the date of
4 the request.

5 (6) If, at the review, the payer establishes that the lien is
6 not proper because of a mistake of fact **or because the lien does**
7 **not arise against all or a portion of the property as provided in**
8 **section 25a(6),** the title IV-D agency shall terminate **or modify**
9 the lien and, within 7 days, notify the applicable entity that
10 the lien is terminated **against all or a portion of the property.**
11 **If all or a portion of the payer's or other person's claims based**
12 **on section 25a(6) are valid, the title IV-D agency shall notify**
13 **the payer of the amount of claims found to be valid, itemized by**
14 **category.**

15 (7) If the payer fails to request a review, to appear for a
16 review, or to establish a mistake of fact **or lien exemption,** the
17 title IV-D agency may collect the arrearage by levy upon any
18 property belonging to the payer as provided in this section. The
19 title IV-D agency shall notify the payer at the review or by
20 written notice of its intent to levy.

21 (8) To enforce a lien on real property or personal property,
22 the title IV-D agency may sell the real property in the manner
23 provided by law for the judicial foreclosure of mortgage liens;
24 apply to the circuit court for an order to execute the judgment,
25 to appoint a receiver of the real and personal property subject
26 to the lien, and to order the property and its income to be
27 applied to the amount of the judgment; or take any other

1 appropriate action to enforce the judgment. The title IV-D
2 agency shall mail a copy of orders under this subsection to the
3 payer and recipient of support at his or her last known address.

4 (9) A payer may request that the title IV-D agency terminate
5 a lien against the real and personal property of the payer on the
6 basis that the payer is no longer in arrears. If the payer is no
7 longer in arrears, the title IV-D agency shall terminate the lien
8 in accordance with law.

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

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

16 (2) ~~If a payer's financial assets held by a financial~~
17 ~~institution are subject to a lien under section 25a and an~~
18 ~~arrearage has accrued in an amount that exceeds 2 times the~~
19 ~~monthly amount of periodic support payments payable under the~~
20 ~~payer's support order, the title IV-D agency may levy against the~~
21 ~~payer's financial assets held by a financial institution. If an~~
22 **arrearage has accrued in an amount that exceeds 2 times the**
23 **monthly amount of periodic support payments payable under a**
24 **payer's support order, the title IV-D agency may levy against any**
25 **of the following items subject to a lien under section 25a to**
26 **which the payer is entitled:**

27 (a) **Financial assets held by a financial institution.**

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

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

7 (3) To levy against a payer's financial assets, **money to be**
8 **paid, or compensation**, the title IV-D agency shall serve the
9 financial institution holding the financial assets, **the insurer,**
10 **or the carrier** with a notice of the lien and levy, directing the
11 financial institution, **insurer, or carrier** to freeze ~~the~~
12 ~~payer's~~ **those** financial assets ~~held by the financial~~
13 ~~institution~~ **or that money or compensation.** ~~—(3)—~~ The office of
14 child support, in consultation with the state court
15 administrative office, shall create the form that is required for
16 the notice to a financial institution, **insurer, or carrier** under
17 **this** subsection. ~~—(2)—~~ The form shall include, or provide for
18 inclusion of, at least all of the following:

19 (a) The levy amount.

20 (b) Information that enables the financial institution,
21 **insurer, or carrier** to link the payer with his or her financial
22 assets, **money to be paid, or compensation** and to notify the
23 payer.

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

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

27 (4) A title IV-D agency may withdraw a levy under this

1 section at any time before the circuit court considers or hears
2 the matter in an action filed under section 25f. The title IV-D
3 agency shall give notice of the withdrawal to the payer and
4 financial institution, **insurer, or carrier**. Upon receiving
5 notice of a withdrawal of a levy, the financial institution,
6 **insurer, or carrier** shall release the payer's financial assets,
7 **money to be paid, or compensation** by the close of business on 1
8 of the following days:

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

11 (b) If the notice is received at noon or later, the second
12 business day after the business day on which the notice is
13 received.

14 (5) As used in this section and sections 25d to 25i:

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

16 (i) "Carrier" as that term is defined in section 601 of the
17 worker's disability compensation act of 1969, 1969 PA 317, MCL
18 418.601.

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

21 (iii) The property and casualty guaranty association required
22 to be maintained by section 7911 of the insurance code of 1956,
23 1956 PA 218, MCL 500.7911.

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

26 Sec. 25d. (1) A financial institution, **insurer, or carrier**
27 incurs no obligation or liability to a depositor, account holder,

1 or other person arising from the furnishing of information under
2 sections 25c to 25i or from the failure to disclose to a
3 depositor, account holder, or other person that the person's name
4 as a person with an interest in the financial assets, **money to be**
5 **paid, or compensation** was included in the information provided.

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

10 (3) A financial institution, **insurer, or carrier** incurs no
11 obligation or liability for blocking, freezing, placing a hold
12 upon, forwarding, or otherwise dealing with a person's financial
13 assets, **money to be paid, or compensation** in response to a lien
14 or levy imposed or information provided under sections 25c to
15 25i.

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

27 Sec. 25e. (1) When a financial institution, **insurer, or**

1 **carrier** receives a notice of levy **under section 25c** on a payer's
2 financial assets held by the financial institution; ~~under~~
3 ~~section 25c~~ **money to be paid by an insurer as the result of a**
4 **claim for negligence, personal injury, or death, under an**
5 **arbitration award, or under a settlement of or judgment issued in**
6 **a civil action; or compensation under a worker's compensation**
7 **order, settlement, redemption order, or voluntary payment, the**
8 financial institution, **insurer, or carrier** shall freeze those
9 financial assets, **money to be paid, or compensation.** If the
10 payer's financial assets, ~~held by a financial institution~~
11 ~~exceed~~ **money to be paid, or compensation exceeds** the levy
12 amount, the financial institution, **insurer, or carrier** shall
13 freeze those financial assets, **or that money to be paid or**
14 **compensation,** up to the levy amount. A financial institution,
15 **insurer, or carrier** shall execute the freeze of a payer's
16 financial assets, **money to be paid, or compensation** under this
17 section by the close of business on 1 of the following days:
18 (a) If the notice is received before noon, the first business
19 day after the business day on which the notice is received.
20 (b) If the notice is received at noon or later, the second
21 business day after the business day on which the notice is
22 received.
23 (2) After complying with subsection (1), a financial
24 institution, **insurer, or carrier** shall give notice of that
25 compliance to the title IV-D agency, the payer, and each other
26 person with an interest in the financial assets, **money to be**
27 **paid, or compensation** as shown in the financial institution's,

1 **insurer's, or carrier's** records. A financial institution's,
2 **insurer's, or carrier's** notice to a payer under this subsection
3 shall include a copy of the title IV-D agency notice to the
4 financial institution, **insurer, or carrier**.

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

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

1 payer's past due support, or another mistake of fact, or the fact
2 that the lien does not arise against all or a portion of the
3 property as provided in section 25a(6), as cause to release or
4 modify the levy. The title IV-D agency shall not consider a
5 challenge based on section 25a(6) unless the payer or other
6 person with an interest includes with the challenge an affidavit
7 and related documentation setting forth the amount the payer
8 claims is exempted under section 25a(6), itemized by category. If
9 the title IV-D agency determines that a mistake of fact occurred
10 or all or a portion of the payer's claims based on section 25a(6)
11 are valid, the title IV-D agency shall do 1 of the following:

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

17 (b) If the payer does owe past due support in an amount equal
18 to or greater than 2 times the payer's monthly support amount
19 under a support order, but the amount in the notice to levy is
20 more than the payer owes, notify the payer of the corrected
21 amount.

22 (c) If the mistake concerns a fact other than those described
23 in subdivisions (a) and (b), take action appropriate to the
24 mistake.

25 (d) If all or a portion of the payer's or other person's
26 claims based on section 25a(6) are valid, notify the payer or
27 other person with an interest of the amount of claims found to be

1 **valid, itemized by category.**

2 (3) If the title IV-D agency finds no mistake of fact **or no**
3 **valid claims under section 25a(6)**, the title IV-D agency shall
4 notify the payer or other person with an interest of that
5 finding.

6 (4) If the payer or other person with an interest disagrees
7 with the title IV-D agency review determination under this
8 section, the payer or other person with an interest may challenge
9 the levy under section 25c by filing an action in the circuit
10 court that issued a support order that is an underlying basis for
11 the levy. A payer or other person with an interest must file an
12 action under this subsection within 21 days after the title IV-D
13 agency sends notice of its review determination and shall give
14 the title IV-D agency notice of the action.

15 (5) If an action is not filed in the circuit court within the
16 time limit required by subsection (4), the title IV-D agency
17 shall notify the financial institution, **insurer, or carrier**,
18 directing the financial institution, **insurer, or carrier** to act
19 in accordance with the title IV-D agency review determination
20 under this section. If an action is filed in the circuit court
21 within the time limit prescribed in subsection (4), the title
22 IV-D agency shall notify the financial institution, **insurer, or**
23 **carrier**, directing the financial institution, **insurer, or carrier**
24 to act in accordance with the court decision.

25 Sec. 25g. (1) A financial institution, **insurer, or carrier**
26 that receives a notice of levy under section 25c shall forward
27 money in the amount of past due support as stated in the notice,

1 or in the corrected amount if notified of a corrected amount, to
2 the state disbursement unit, along with information necessary to
3 identify the payer as required by the notice.

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

8 (a) The financial institution, **insurer, or carrier** notifies
9 the payer and the title IV-D agency that the payer's financial
10 assets are, **or money to be paid or compensation is**, frozen as
11 required by section 25e and has not received, within 28 days
12 after the day on which the financial institution, **insurer, or**
13 **carrier** sent the notices, a notice from the title IV-D agency
14 that the payer or another person with an interest in the
15 financial assets, **money to be paid, or compensation** has submitted
16 a challenge to the levy under section 25f.

17 (b) The financial institution, **insurer, or carrier** receives,
18 within the time limit prescribed in subdivision (a), a notice
19 from the title IV-D agency that the payer or another person with
20 an interest in the financial assets, **money to be paid, or**
21 **compensation** submitted a challenge to the levy and receives the
22 subsequent title IV-D agency notice required by section 25f,
23 directing the financial institution, **insurer, or carrier** to act
24 in accordance with either the title IV-D agency review
25 determination or the circuit court decision.

26 (3) If, in order to forward sufficient money to the SDU, the
27 financial institution must convert 1 or more financial assets to

1 cash, the financial institution shall execute the conversion,
2 assessing a resulting fee or other cost or penalty against the
3 payer. If the payer's financial assets are insufficient to pay
4 the past due support amount plus resulting fees and other costs
5 or penalties, the financial institution may deduct the fees,
6 costs, and penalties before forwarding the balance of the money.

7 Sec. 25h. (1) If an action is filed in circuit court within
8 the time limit prescribed in section 25f, the circuit court shall
9 review the matter de novo. The action is governed by this
10 section and the Michigan court rules. The circuit court review
11 is not limited to mistakes of fact **or claims based on section**
12 **25a(6)**.

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

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

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

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

25 Sec. 25i. (1) If, after a financial institution forwards
26 money to the state disbursement unit, all of the forwarded money
27 is returned to the payer due to a mistake of fact or court order,

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1 the title IV-D agency shall reimburse the payer for a fee, cost,
2 or penalty that the financial institution assessed against the
3 payer under section 25g. ~~In addition, the~~ **The title** IV-D
4 agency shall **also** compensate the payer for the amount of interest
5 that the financial assets would have earned had they not been
6 converted and forwarded to the SDU, to the extent that the
7 interest can be determined with a reasonable degree of
8 certainty.

9 (2) If the total amount of past due support the payer owes
10 under all support orders subject to levy under section 25c is
11 more than the amount of money a financial institution, **insurer,**
12 **or carrier** forwards the SDU under section 25g, the SDU shall
13 allocate the money among those support orders by multiplying the
14 total amount of money forwarded by the percentages arrived at by
15 dividing the past due support amount under each of those support
16 orders by the total of the past due support amounts under all of
17 those support orders.

18 Enacting section 1. This amendatory act takes effect
19 October 1, 2005.

20 Enacting section 2. Before January 31, 2006, the title IV-D
21 agency and the <<worker's compensation agency>> shall report to
22 the standing committees of the senate and house of
23 representatives with primary responsibility for legislation
24 concerning child support enforcement on the status of, efficacy
25 of, and problems that have arisen in the implementation of the
26 provisions of the support and parenting time enforcement act that
27 were amended or added by this amendatory act and in the

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1 implementation of the related interagency agreement. In
2 addition, the <<worker's compensation agency>> shall report to
3 those same standing committees the effect that implementation has
4 had on efficiency in the management of worker's compensation case
5 settlements and redemptions.