

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  
10 3107(1)(c)] of the insurance code of  
11 1956, 1956 PA 218, MCL 500.3107.

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

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

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

23 (i) "Carrier" as that term is defined in section 601 of the  
24 worker's disability compensation act of 1969, 1969 PA 317, MCL  
25 418.601.

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

(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 25e~~ 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.