



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bills 1447 through 1451 (as introduced 10-6-04)
Sponsor: Senator Bev Hammerstrom (S.B. 1447 & 1551)
Senator Bruce Patterson (S.B. 1448)
Senator Tony Stamas (S.B. 1449)
Senator Gerald Van Woerkom (S.B. 1450)

Committee: Families and Human Services

Date Completed: 11-9-04

CONTENT

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 or personal injury, and funds due from a settlement, civil judgment, arbitration award, or worker's compensation, subject to certain exceptions.**
- **Allow a Title IV-D agency to levy against a payer's worker's compensation amount in the same manner in which it may levy against a payer's financial assets held by a financial institution.**
- **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 were 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.**
- **Require the Workers' Compensation Agency to release information to the Title IV-D agency.**

(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.)

Senate Bills 1447 and 1448 would amend the Support and Parenting Time Enforcement Act; Senate Bill 1449 would amend the Insurance Code; Senate Bill 1450 would amend the

Estates and Protected Individuals Code (EPIC); and Senate Bill 1451 would amend the Worker's Disability Compensation Act.

Senate Bills 1447, 1448, and 1450 would take effect on June 1, 2005. Senate Bill 1450 is tie-barred to Senate Bill 1447.

(Please see **BACKGROUND** for information on the child support lien network.)

Senate Bill 1447

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 specifies that the lien would include a distribution from a decedent's estate, a claim for negligence or personal injury, and funds due a support payer from a settlement, civil judgment, arbitration award, or a worker's compensation order, settlement, or voluntary payment.

Currently, a support lien is not created against financial assets pledged to a financial institution as collateral or financial assets to which a financial institution has a prior right of setoff or other lien. The bill specifies that a lien also would not be created against property or allowances described in Sections 2401 to 2404 of EPIC or trusts regulated under Article VII (Trust Administration) of EPIC. (Sections 2401 to 2404 provide for a homestead allowance to a decedent's spouse and a family allowance for the spouse and minor children, and exempts from an estate certain household property and personal effects.)

In addition, a lien would not be created against funds from a claim for negligence or personal injury or from a settlement, civil judgment, arbitration award, or worker's compensation order, settlement, or voluntary payment that were owed for any of the following:

- Attorney fees.
- Court costs.
- To the Medicaid program under the Social Welfare Act.
- Medical services and reimbursements for payments made for medical services either to or by a nonprofit health care corporation, health maintenance organization, health insurer, or self-funded health plan.
- An administrative fee for processing the lien.
- Other costs related to the award, redemption, order, settlement, or voluntary payment.

The Act provides that, except for financial assets held by a financial institution, the Title IV-D agency may perfect a lien upon the real or personal property of a support payer when an arrearage exceeds twice the monthly amount of periodic support payments payable under the support order. Under the bill, the exception to that provision would apply to financial assets or funds held by a financial institution.

Under the Act, if a payer's financial assets held by a financial institution are subject to a support lien and an arrearage of twice the monthly amount of periodic support payments has accrued, the Title IV-D agency may levy against those assets. Under the bill, the Title IV-D agency also could levy against a payer's funds owed pursuant to a worker's compensation order, settlement, or voluntary payment.

To levy against a payer's financial assets, the Title IV-D agency must serve the financial institution holding the assets with a notice of the lien and levy, directing the financial institution to freeze the payer's financial assets. Under the bill, to levy against a payer's financial assets or funds, the Title IV-D agency would have to serve notice on the financial

institution or "carrier" directing the financial institution or carrier to freeze the assets or funds.

When a financial institution receives a notice of levy on a payer's financial assets, the institution must freeze those assets. If the financial assets exceed the levy amount, the financial institution must freeze the assets up to the levy amount. Under the bill, this provision also would apply to a carrier with respect to funds owed pursuant to a worker's compensation order, settlement, or voluntary payment.

The Act also prescribes procedures for notifying a payer of levied financial assets, challenging a levy, forwarding money in the amount of past due child support, and paying reimbursement and compensation for levies made in error. Under the bill, these all would apply to funds owed to payers by carriers as well as financial assets of payers held by financial institutions.

"Carrier" would mean that term as defined in the Worker's Disability Compensation Act or the Second Injury Fund or Self-Insurers' Security Fund created under that Act. (The Worker's Disability Compensation Act defines "carrier" as an insurer or a self-insurer. "Insurer" means an organization that transacts the business of worker's compensation insurance within Michigan; "self-insurer" means either an individual employer authorized to carry its own risk or a group of employers who pool their liabilities as a group fund in a manner regulated under the Act.)

Senate Bill 1448

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.

Senate Bill 1449

The bill would allow an insurance company, either directly or through a third party, to cooperate voluntarily with a Title IV-D agency and the CSLN in identifying obligors subject to child support arrearages who also were entitled to certain liability insurance settlements or awards. An insurance company that provided information or otherwise responded to a notice of child support lien or levy, or that acted in good faith to comply with State or Federal law, would not be liable for those acts to any person.

Senate Bill 1450

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.

Senate Bill 1451

Under the Worker's Disability Compensation Act, the Workers' Compensation Agency must release information to the Title IV-D agency in accordance with requirements of the Office of Child Support Act. The bill also would require the Workers' Compensation Agency to release

information to the Title IV-D agency in accordance with the Support and Parenting Time Enforcement Act. The information to be released would include information that identified individuals asserting a claim for worker's compensation benefits and the responsible carrier or fund.

MCL 552.625a et al. (S.B. 1447)
Proposed MCL 552.24b (S.B. 1448)
Proposed MCL 500.418 (S.B. 1449)
MCL 700.3705 (S.B. 1450)
MCL 418.230 (S.B. 1451)

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 18 states currently participate in the CSLN, but Michigan is not among them.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Senate Bills 1447, 1448, and 1451

The bills would have an indeterminate fiscal impact on the State. The bills would expand the Child Support Program's use of liens in the collection of child support arrearages. The September 2004 Program audit report recommended amendatory legislation "...to provide for a practical method of using liens on real and nonfinancial personal property to effect collection of child support arrearages". The audit report indicated that in 99% of the sample cases reviewed, the FOC did not attempt to perfect liens on payers' property because of the inability to identify such property efficiently. It is not certain exactly how many cases would be affected and the fiscal impact cannot be determined at this time.

There would be no fiscal impact on the Department of Labor and Economic Growth.

Senate Bills 1449 and 1450

The bills would have no fiscal impact on State or local government.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.