

SENATE BILL No. 889

December 10, 2003, Introduced by Senator STAMAS and referred to the Committee on Families and Human Services.

A bill to amend 1982 PA 295, entitled
"Support and parenting time enforcement act,"
(MCL 552.601 to 552.650) by adding section 25j.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 25j. (1) The amount of past due support that accrues
2 under a judgment as provided in section 3 is a lien against the
3 net proceeds of a redemption, voluntary pay settlement, or
4 advance payment negotiated before or after the filing of a
5 worker's disability compensation claim, or an order or award.
6 The lien is effective at the time the support is due and unpaid
7 and continues until the amount of past due support is paid in
8 full or the lien is terminated by the support enforcement
9 agency. The lien under this subsection is perfected upon filing
10 with the office of child support. The lien has priority over all
11 other liens, levies, and garnishments against the net proceeds of

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1 a redemption, voluntary pay settlement, or advance payment
2 negotiated before or after the filing of a worker's disability
3 compensation claim, or an order or award unless otherwise
4 provided by the order or award. The lien does not have priority
5 over levies to recover unpaid income taxes owed to the state.
6 The lien stays the distribution of the net proceeds to the
7 claimant until the child support judgment is satisfied.

8 (2) Before distributing net proceeds of a redemption,
9 voluntary pay settlement, advance payment, order, or award to the
10 claimant, all of the following shall occur:

11 (a) The claimant shall provide the attorney or agent
12 responsible for the final distribution of the money with a
13 certification that includes the claimant's full name, mailing
14 address, date of birth, and social security number.

15 (b) The attorney representing the claimant shall initiate a
16 search of child support judgments, through the office of child
17 support, to determine if the claimant is a child support obligor
18 or judgment debtor.

19 (3) If the claimant is not represented by an attorney, the
20 judgment search shall be initiated by the agent before the
21 proceeds are distributed to the claimant. The office of child
22 support shall, at least once every 60 days, transmit information
23 on child support judgment debtors to the bureau of workers' and
24 unemployment compensation. The information shall include the
25 debtor's name, social security number, the amount of the child
26 support judgment, the friend of the court case number, and the
27 office to which the judgment is payable. The bureau of workers'

1 and unemployment compensation shall match the data received on
2 child support judgment debtors against the information it
3 maintains for individuals who have filed workers' compensation
4 claims with the bureau. When a match is identified, the bureau
5 of workers' and unemployment compensation shall notify the
6 appropriate workers compensation magistrate of the child support
7 judgment before the decision, award, determination, judgment, or
8 order approving the redemption, voluntary pay settlement, or
9 advance payment is rendered. The magistrate shall incorporate in
10 the decision, award, determination, judgment, or order approving
11 the redemption, voluntary pay settlement, or advance payment an
12 order requiring the employer or the employer's insurance carrier
13 to contact the office of child support to satisfy the child
14 support judgment out of the net proceeds of the workers'
15 compensation award or order before money is paid to the
16 employee. The office of child support shall provide a
17 certification to the attorney or party initiating the lawsuit or
18 arbitration identifying whether or not the claimant is a child
19 support judgment debtor.

20 (4) For net proceeds that are to be paid through a structured
21 settlement or other payment plan, the attorney or agent is
22 required to conduct the child support judgment search only at the
23 time of redemption, voluntary pay settlement, or advance payment
24 or before the distribution of the first payment under the plan.
25 If a child support judgment is identified, the attorney or agent
26 shall provide the office of child support with a copy of the
27 structured settlement or payment plan within 30 days of

1 identifying the child support judgment.

2 (5) The fee for a judgment search required by this section
3 shall not exceed \$10.00 for each name of a child support judgment
4 debtor that is searched. The fee for a judgment search is
5 chargeable against the net proceeds as a cost of the redemption,
6 voluntary pay settlement, advance payment, order, or award.

7 (6) If the certification shows that the claimant is not a
8 child support judgment debtor, the net proceeds may be paid to
9 the claimant immediately. If the certification shows that the
10 claimant is a child support judgment debtor, the attorney or
11 agent that initiated the search shall contact the office of child
12 support to arrange for the satisfaction of the child support
13 judgment. The attorney or agent shall notify the claimant of the
14 intent to satisfy the child support judgment before the
15 disbursement of money to the claimant. Upon receipt of a
16 satisfaction of judgment for the child support obligation, the
17 attorney or agent shall pay the balance of the redemption,
18 voluntary pay settlement, advance payment, or award to the
19 claimant. If the net proceeds are less than the amount of the
20 child support judgment, the entire amount of the net proceeds
21 shall be paid to the office of child support as partial
22 satisfaction of the judgment.

23 (7) An attorney or agent is not liable for distributing net
24 proceeds to the claimant based on the results of a judgment
25 certification showing that the claimant is not the debtor of a
26 child support judgment, if it is later shown that the prevailing
27 party provided inaccurate personal information on the initial

1 certification to the attorney or agent.

2 (8) An attorney or agent who satisfies a child support
3 judgment from the net proceeds of a redemption, voluntary pay
4 settlement, advance payment, order, or award under this section
5 is not liable for payments that otherwise would have been made
6 under this section if those payments were not identified to the
7 attorney or agent at the time of satisfaction.

8 (9) An attorney or agent who satisfies a child support
9 judgment from the net proceeds of a redemption, voluntary pay
10 settlement, advance payment, order, or award is not liable to the
11 claimant or to that claimant's creditors.

12 (10) An attorney is not required to challenge a child support
13 judgment unless retained by the claimant to do so.

14 (11) To the extent feasible and permitted by the Michigan
15 court rules, the office of child support may share information on
16 a child support judgment debtor with an insurance carrier or
17 third party administrator for the sole purpose of complying with
18 the provisions of this act.

19 (12) As used in this section:

20 (a) "Agent" means an authorized representative of the
21 claimant, the employer, the employer's third party administrator
22 or insurance carrier, or other person if the person is
23 responsible for the distribution of net proceeds to a claimant.

24 (b) "Claimant" does not include a partnership, corporation,
25 limited liability partnership, financial institution, government
26 entity, or minor child.

27 (c) "Net proceeds" means any amount of money, in excess of

1 \$2,000.00, payable to the claimant after attorney fees, witness
2 fees, costs, payments to the medicaid program under the social
3 welfare act, 1939 PA 280, MCL 400.1a to 400.122, reimbursement to
4 an employer or to the employer's workers' compensation carrier as
5 provided in section 827 of the worker's disability compensation
6 act of 1969, 1969 PA 317, MCL 418.827, and other costs related to
7 the redemption, voluntary pay settlement, advance pay settlement,
8 order, or award are deducted.