

SENATE BILL No. 888

December 10, 2003, Introduced by Senator VAN WOERKOM 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 an inheritance. The lien is effective at the
4 time the support is due and unpaid and continues until the amount
5 of past due support is paid in full or the lien is terminated by
6 the support enforcement agency. The lien under this subsection
7 is perfected upon filing with the office of child support. The
8 lien has priority over all other liens, levies, and garnishments
9 against the net proceeds of an inheritance unless otherwise
10 provided by the court in the domestic relations matter. The lien
11 does not have priority over levies to recover unpaid income taxes

1 owed to the state. The lien stays the distribution of the net
2 proceeds to the distributee or beneficiary until the child
3 support judgment is satisfied.

4 (2) Before distributing net proceeds of an inheritance to the
5 distributee or beneficiary, all of the following shall occur:

6 (a) The distributee or beneficiary shall provide the attorney
7 or agent responsible for the final distribution of the money with
8 a certification that includes the distributee's or beneficiary's
9 full name, mailing address, date of birth, and social security
10 number.

11 (b) The attorney representing the distributee or beneficiary
12 shall initiate a search of child support judgments, through the
13 office of child support, to determine if the distributee or
14 beneficiary is a child support obligor or judgment debtor.

15 (3) If the distributee or beneficiary is not represented by
16 an attorney, the judgment search shall be initiated by the
17 executor or administrator of the decedent's estate, and verified
18 by the probate registrar, before the proceeds are distributed to
19 the distributee or beneficiary. The office of child support
20 shall provide a certification to the attorney, executor, or
21 administrator initiating the lawsuit or arbitration identifying
22 whether or not the distributee or beneficiary is a child support
23 judgment debtor.

24 (4) For net proceeds that are to be paid through a payment
25 plan or trust, the attorney or agent is required to conduct the
26 child support judgment search only at the time of settlement or
27 before the distribution of the first payment under the plan. If

1 a child support judgment is identified, the attorney or agent
2 shall provide the office of child support with a copy of the
3 payment plan within 30 days of identifying the child support
4 judgment.

5 (5) For money deposited with a court, no distribution of
6 money shall be made until the attorney, distributee, or
7 beneficiary provides the clerk of the court with a copy of the
8 certification showing that the distributee or beneficiary is not
9 a child support judgment debtor.

10 (6) The fee for a judgment search required by this section
11 shall not exceed \$10.00 for each name of a child support judgment
12 debtor that is searched. The fee for a judgment search is
13 chargeable against the net proceeds as a cost of the settlement,
14 judgment, inheritance, or award.

15 (7) If the certification shows that the distributee or
16 beneficiary is not a child support judgment debtor, the net
17 proceeds may be paid to the distributee or beneficiary
18 immediately. If the certification shows that the distributee or
19 beneficiary is a child support judgment debtor, the attorney or
20 agent that initiated the search shall contact the office of child
21 support to arrange for the satisfaction of the child support
22 judgment. The attorney or agent shall notify the distributee or
23 beneficiary of the intent to satisfy the child support judgment
24 before the disbursement of money to the distributee or
25 beneficiary. Upon receipt of a satisfaction of judgment for the
26 child support obligation, the attorney or agent shall pay the
27 balance of the settlement, judgment, award, or inheritance to the

1 distributee or beneficiary. If the net proceeds are less than
2 the amount of the child support judgment, the entire amount of
3 the net proceeds shall be paid to the office of child support as
4 partial satisfaction of the judgment.

5 (8) An attorney or agent is not liable for distributing net
6 proceeds to the distributee or beneficiary based on the results
7 of a judgment certification showing the distributee or
8 beneficiary is not the debtor of a child support judgment, if it
9 is later shown that the distributee or beneficiary provided
10 inaccurate personal information on the initial certification to
11 the attorney, insurer, or agent.

12 (9) An attorney or agent who satisfies a child support
13 judgment from the net proceeds of an estate or inheritance under
14 this section is not liable for payments that otherwise would have
15 been made under this section if those payments were not
16 identified to the attorney or agent at the time of satisfaction.

17 (10) An attorney or agent who satisfies a child support
18 judgment from the net proceeds of an estate or inheritance under
19 this section is not liable to the distributee or beneficiary or
20 to that distributee's or beneficiary's creditors.

21 (11) An attorney is not required to challenge a child support
22 judgment unless retained by the distributee or beneficiary to do
23 so.

24 (12) To the extent feasible and permitted by the Michigan
25 court rules, the office of child support may share information on
26 a child support judgment debtor with an insurance carrier for the
27 sole purpose of complying with the provisions of this act.

(13) As used in this section:

(a) "Net proceeds" means any amount of money, in excess of \$2,000.00, payable to the distributee or beneficiary after attorney fees or other costs related to the inheritance are deducted from the estate.

(b) "Distributee or beneficiary" does not include a partnership, corporation, limited liability partnership, financial institution, government entity, or minor child.

(c) "Agent" means an authorized representative of the distributee or beneficiary, an executor or administrator of a decedent's estate, or another person if the person is responsible for the distribution of net proceeds to a distributee or beneficiary.