

# SENATE BILL No. 890

December 10, 2003, Introduced by Senator PATTERSON 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:**

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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 settlement negotiated before or after the  
4 filing of a lawsuit, civil judgment, or arbitration award. The  
5 lien is effective at the time the support is due and unpaid and  
6 continues until the amount of past due support is paid in full or  
7 the lien is terminated by the support enforcement agency. The  
8 lien under this subsection is perfected upon filing with the  
9 office of child support. The lien has priority over all other  
10 liens, levies, and garnishments against the net proceeds of a  
11 settlement negotiated prior or subsequent to the filing of a

1 lawsuit or civil judgment unless otherwise provided by the court  
2 in the domestic relations matter. The lien does not have  
3 priority over levies to recover unpaid income taxes owed to the  
4 state. The lien stays the distribution of the net proceeds to  
5 the prevailing party until the child support judgment is  
6 satisfied.

7 (2) Before distributing net proceeds of a settlement,  
8 judgment, or award to the prevailing party, all of the following  
9 shall occur:

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

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

18 (3) If the prevailing party is not represented by an  
19 attorney, the judgment search shall be initiated by the opposing  
20 attorney or agent before the proceeds are distributed to the  
21 prevailing party. If judgments, settlements, or awards result  
22 from a labor arbitration involving employees of a school board or  
23 school district, a judgment search shall be initiated by the  
24 school board or district prior to the release of net proceeds to  
25 the employees and only if there is an income withholding for  
26 child support active against the employee in the records of the  
27 school board or district. The office of child support shall

1 provide a certification to the attorney or party initiating the  
2 lawsuit or arbitration identifying whether or not the prevailing  
3 party is a child support judgment debtor.

4 (4) For net proceeds that are to be paid through a structured  
5 settlement or other payment plan, the attorney or agent is  
6 required to conduct the child support judgment search only at the  
7 time of settlement or before the distribution of the first  
8 payment under the plan. If a child support judgment is  
9 identified, the attorney or agent shall provide the office of  
10 child support with a copy of the structured settlement or payment  
11 plan within 30 days of identifying the child support judgment.

12 (5) If there is not an attorney representing either party in  
13 a civil lawsuit or arbitration, the party bringing the lawsuit or  
14 arbitration shall initiate the judgment search and shall file the  
15 certification with the court at least 10 working days before the  
16 trial or file a stipulation that the certification will be filed  
17 at the time of the settlement or dismissal of the lawsuit or  
18 arbitration.

19 (6) For money deposited with a court, no distribution of  
20 money shall be made until the attorney, prevailing party, or  
21 agent provides the clerk of the court with a copy of the  
22 certification showing that the prevailing party is not a child  
23 support judgment debtor.

24 (7) The fee for a judgment search required by this section  
25 shall not exceed \$10.00 for each name of a child support judgment  
26 debtor that is searched. The fee for a judgment search is  
27 chargeable against the net proceeds as a cost of the settlement

1 or judgment.

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

18 (9) If there is not an attorney representing either party in  
19 a civil lawsuit or arbitration and the certification filed with  
20 the court shows that the prevailing party is a child support  
21 judgment debtor, the court shall order that the opposing party  
22 pay the amount of the child support judgment to the office of  
23 child support before any money is paid to the prevailing party.  
24 The court or arbitrator shall also insure that any judgment  
25 related to the lawsuit or arbitration reflects the office of  
26 child support's superior claim to the money.

27 (10) An attorney or agent is not liable for distributing net

1 proceeds to the prevailing party based on the results of a  
2 judgment certification showing that the prevailing party is not  
3 the debtor of a child support judgment, if it is later shown that  
4 the prevailing party provided inaccurate personal information on  
5 the initial certification to the attorney or agent.

6 (11) An attorney or agent who satisfies a child support  
7 judgment from the net proceeds of a settlement or judgment under  
8 this section is not liable for payments that otherwise would have  
9 been made under this section if those payments were not  
10 identified to the attorney or agent at the time of satisfaction.

11 (12) An attorney or agent who satisfies a child support  
12 judgment from the net proceeds of a settlement, judgment, or  
13 arbitration under this section is not liable to the prevailing  
14 party or to that party's creditors.

15 (13) An attorney is not required to challenge a child support  
16 judgment unless retained by the prevailing party to do so.

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

21 (15) As used in this section:

22 (a) "Net proceeds" means any amount of money, in excess of  
23 \$2,000.00, payable to the prevailing party after attorney fees,  
24 witness fees, court costs, and other costs related to the lawsuit  
25 or arbitration are deducted.

26 (b) "Prevailing party" does not include a partnership,  
27 corporation, limited liability partnership, financial

1 institution, government entity, or minor child.

2       (c) "Agent" means an authorized representative of the  
3 prevailing party or other person if the person is responsible for  
4 the distribution of net proceeds to a prevailing party.