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# SENATE BILL No. 136

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-9-2-118.5; IC 31-16-16.

**Synopsis:** Child support payments from joint accounts. Provides that before enforcing a judgment against funds in a checking or savings account held jointly by a child support obligor and the obligor's spouse, a court clerk must send a notice informing the spouse that the spouse may request a hearing and present evidence that a portion of the funds in the joint account should not be subject to legal process for child support purposes. Requires the court to hold a hearing after a spouse's request, and specifies factors the court may consider in determining whether some or all of the funds in a joint account should not be subject to legal process for child support purposes.

**Effective:** July 1, 2006.

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January 9, 2006, read first time and referred to Committee on Judiciary.

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Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

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## SENATE BILL No. 136



A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 31-9-2-118.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2006]: **Sec. 118.5. "Spouse", for purposes of**  
4 **IC 31-16-16-4.5, means the spouse of an obligor who holds**  
5 **property jointly with the obligor in a:**

- 6 (1) **checking account; or**
- 7 (2) **savings account.**

8 SECTION 2. IC 31-16-16-3 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) **Subject to**  
10 **section 4.5 of this chapter**, a lien is created against the real and  
11 personal property of the obligor in the amount of a judgment described  
12 in section 5 or 6 of this chapter.

13 (b) A person holding a lien created by a judgment described in  
14 section 5 or 6 of this chapter:

- 15 (1) has the priority of an unperfected secured creditor in any
- 16 enforcement proceeding instituted against the property; and
- 17 (2) may perfect the lien in the same manner as liens arising from



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other civil judgments are perfected.  
SECTION 3. IC 31-16-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) **Subject to section 4.5 of this chapter**, an obligee may enforce a judgment created under section 5 or 6 of this chapter (or IC 31-2-11-8 before its repeal) in the same manner as other civil judgments are enforced.

(b) If in a proceeding to enforce a judgment created under section 5 or 6 of this chapter (or IC 31-2-11-8 before its repeal) an obligor or an income payor disputes the amount that constitutes a judgment, the court with jurisdiction over the enforcement proceeding may conduct a hearing to determine the amount of delinquent support that is a judgment.

SECTION 4. IC 31-16-16-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4.5. (a) Before enforcing a judgment created under section 5 or 6 of this chapter (or IC 31-2-11-8 before its repeal) by attempting to garnish, attach, or otherwise acquire by legal process the funds in a checking account or savings account held jointly by an obligor and the obligor's spouse, the clerk of the court with jurisdiction over the enforcement proceeding shall send notice to the spouse by registered mail. The notice must include the following information:**

- (1) The spouse may request a hearing not later than fifteen (15) days after receipt of the notice.**
- (2) If the spouse requests a hearing under subdivision (1), the spouse may present evidence to the court that, based on the factors under subsection (c), a portion of the funds in the joint checking account or joint savings account should not be garnished, attached, or otherwise acquired by legal process to enforce a judgment against the obligor under section 5 or 6 of this chapter (or IC 31-2-11-8 before its repeal).**

**(b) If a spouse requests a hearing not later than fifteen (15) days after receipt of the notice under subsection (a), the court shall hold a hearing to determine whether, based on the evidence presented, any portion of the funds in a joint account described in subsection (a) should not be garnished, attached, or otherwise acquired by legal process to enforce a judgment against an obligor under section 5 or 6 of this chapter (or IC 31-2-11-8 before its repeal).**

**(c) In determining the amount of funds that should not be garnished, attached, or otherwise acquired by legal process under subsection (b), the court may consider the following factors:**

- (1) The income of the:**

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- 1                   (A) obligor; and
- 2                   (B) spouse.
- 3           (2) Whether the spouse contributed to the funds in the joint
- 4           checking account or joint savings account.
- 5           (3) The items purchased or paid for from the funds in the
- 6           joint checking account or joint savings account.
- 7           (4) Any other relevant factors.

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