

ARIZONA STATE LAW

LEVY STATUTES

§25-521. Levy; seizure of property for collection of support debt; definitions

A. If there is a court ordered judgment or if the obligor is in arrears in an amount equal to twelve months of support, the department may issue a levy and collect the amount owed by the obligor by levy on all property and rights to property not exempt under federal or state law.

B. The levy extends only to property possessed and obligations existing at the time of service or within twenty-one days thereafter, except as to an account held in a financial institution in which case the levy extends only to property possessed and obligations existing at the time of service. On receipt of a notice of levy, a person in possession of property or an interest in property subject to levy shall seize and hold nonexempt property until that person receives from the department a notice of surrender of property or a notice of release of levy. Within three days after receipt, the person served with the notice of levy shall notify the obligor and any other individual or entity known or believed to have an interest in the property that a levy has occurred. The notice shall specify the amount demanded and shall contain, in the case of a seizure of personal property, an account of the property levied on, and in the case of real property, a description with reasonable certainty of the property levied on. The person served with the levy, the obligor or other persons known or believed to have an interest in the property may make a written request for an administrative review to contest the levy within fifteen days after the date of mailing of the notice. The administrative review shall be conducted pursuant to section §25-522, subsection D. The administrative review shall include a determination of the interest of the obligor in the property subject to levy, including the obligor's

contributions to any property held by the community. If the request for administrative review is based on a mistake in identity, the department shall conduct the review within two business days. The administrative review shall be conducted pursuant to section §25-522, subsection E.

C. Any person in possession of property, or obligated with respect to property or rights to property subject to levy, on which a levy has been made, on demand by the department shall surrender the property or right to property to the department.

D. A person who fails or refuses to surrender any property or rights to property, subject to levy, on demand by the department, is liable in an amount equal to the value of the property or rights to property not surrendered, but not exceeding the amount of the past due support for which the levy has been made.

E. If any property or right to property on which a levy has been made under subsection A of this section is not sufficient to satisfy the claim of the department, the department, as often as necessary, may proceed to levy in like manner on any other property subject to levy of the obligor owing support, until the amount due is paid in full.

F. In any case in which the department may levy on property or rights to property, the department may seize and sell the property or rights to the property whether real or personal, tangible or intangible in the manner prescribed by law. Except as otherwise provided by this section, the notice of sale and sale of property seized by the department shall be conducted in the manner and the time provided in title 12, chapter 9, article 7, relating to the sale of property under execution. Real property may be redeemed in the manner provided by title 12, chapter 8, article 11. The department shall notify the obligor of the date, time and location of the sale. The notice shall be given in person, left at the dwelling or usual place of business of the obligor or sent by first class mail to the obligor's last known address, at least ten

days before the day of the sale. If the property or right to property is perishable, the department shall give notice of the sale to the obligor in the manner and within the time limits that are reasonable considering the character and condition of the property.

G. A person who is in possession of or obligated with respect to property or rights to property subject to levy on which a levy has been made and who, on demand by the department, surrenders the property or rights to property to the department is discharged from any obligation or liability to the obligor with respect to the property or rights to property from the surrender on payment.

H. A levy issued pursuant to this section has the same force and effect as a writ of garnishment, execution or attachment issued by the superior court.

I. For purposes of this section:

1. "Account" means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account or money market mutual fund account.

2. "Levy" includes the power to restrain and seize by any legal means.

3. "Person" includes an individual or an officer, employee or agent of a corporation, an officer, employee or elected official of this state or its political subdivisions, or any agency or instrumentality of this state or the federal government or its political subdivisions, or a member or employee of a partnership, who as such officer, employee, agent, elected official or member is under a duty to surrender the property or rights to property, or to discharge the obligation.

§25-523. Financial institutions data match; nonliability; prohibited disclosure; liability; civil liability; definition

A. The department shall enter into agreements with financial institutions that conduct business in this state to develop and operate a data match system to assist the department in the establishment, modification and enforcement of child support orders. The data match system shall use automated data exchange procedures to the maximum extent possible.

B. Data exchanges between financial institutions and the department shall occur quarterly and shall include the name, record address, social security number or other taxpayer identification number and any other identifying information for each obligor who maintains an account at the institution and who owes past due support as identified by the department by name and social security number or other taxpayer identification number.

C. Notwithstanding any law to the contrary, a financial institution is not subject to civil liability for disclosing to the department or its agent a person's financial record pursuant to this section or any acts of omission that are inadvertent and made in good faith.

D. The department and its agent and any state, its agent or political subdivision that administers a child support enforcement program pursuant to title IV-D of the social security act and that obtains a person's financial records may disclose this information only as is necessary to establish, modify or enforce the person's child support obligation.

E. An employee of the department, its agent or any state or political subdivision that administers a child support enforcement program pursuant to title IV-D of the social security act, who knowingly or negligently discloses a person's financial records in violation of subsection D is subject to civil liability in an amount equal to the greater of either:

1. One thousand dollars for each act of unauthorized disclosure of a financial record with respect to which the defendant is found liable.

2. The sum of the actual damages sustained by the plaintiff as a result of the unauthorized disclosure and, in the case of a wilful disclosure or a disclosure that is the result of gross negligence, punitive damages, including costs and attorney fees.

F. The department may pay a reasonable fee to a financial institution for conducting a data match. The fee shall not exceed the actual costs incurred by the financial institution.

G. For purposes of this section "financial institution" means state and federally chartered banks, trust companies, federal and state savings and loan associations, federal and state credit unions, consumer lenders, international banking facilities and financial institution holding companies, insurance companies, benefit associations, safe deposit companies, money market mutual funds and similar institutions authorized to do business in this state and any party affiliated with these financial institutions.

§25-524. Financial institutions; surrender of assets; nonliability

A. On receipt of a notice of lien or levy a financial institution shall encumber or surrender, as appropriate, assets held by the institution on behalf of an obligor.

B. Notwithstanding any law to the contrary, a financial institution is not subject to civil liability for encumbering or surrendering any assets held by the financial institution in response to a notice of lien or levy issued by the department or for any action taken in good faith to comply with this section.

C. The remedy provided in this section is limited to collection of past due support.