

Act No. 291
Public Acts of 1992
Approved by the Governor
December 18, 1992
Filed with the Secretary of State
December 18, 1992

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1992**

Introduced by Reps. Perry Bullard, Nye and Strand

ENROLLED HOUSE BILL No. 5611

AN ACT to amend sections 4 and 19 of Act No. 295 of the Public Acts of 1982, entitled as amended "An act to supplement statutes which provide for the enforcement of support and visitation orders with respect to divorce, separate maintenance, paternity, child custody, and spouse support; to prescribe the powers and duties of the circuit court and friend of the court; to prescribe certain duties of certain employers and other sources of income; to provide for penalties and remedies; and to repeal certain acts and parts of acts," as amended by Act No. 296 of the Public Acts of 1990, being sections 552.604 and 552.619 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 4 and 19 of Act No. 295 of the Public Acts of 1982, as amended by Act No. 296 of the Public Acts of 1990, being sections 552.604 and 552.619 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 4. (1) After July 1, 1983, each support order entered or modified by the circuit court shall provide for an order of income withholding.

(2) Each support order entered by the circuit court on or before July 1, 1983 shall be considered to provide for an order of income withholding by operation of law, and income withholding shall be implemented under the same circumstances and enforced in the same manner as in the case of orders of income withholding provided for pursuant to subsection (1). The office of the friend of the court shall send notice of the provisions of this subsection by ordinary mail to each payer under a support order entered by the circuit court on or before July 1, 1983 to whom this subsection applies.

(3) An order of income withholding in a support order including consideration of any abatements of support entered or modified after December 31, 1990, shall take effect immediately unless 1 of the following applies:

(a) The court finds, upon notice and hearing, that there is good cause for the order of income withholding not to take effect immediately. For purposes of this subdivision, a finding of good cause shall be based on at least all of the following:

(i) A written and specific finding by the court why immediate income withholding would not be in the best interests of the child.

(ii) Proof of timely payment of previously ordered support, if applicable.

(iii) An agreement by the payer that he or she shall keep the office of the friend of the court informed of both of the following:

(A) The name and address of his or her current source of income.

(B) Any health care coverage that is available to him or her as a benefit of employment or that is maintained by him or her; the name of the insurance company, health care organization, or health maintenance organization; the policy, certificate, or contract number; and the names and birth dates of the persons for whose benefit he or she maintains health care coverage under the policy, certificate, or contract.

(b) The parties enter into a written agreement that is reviewed and entered in the record by the court that provides for all of the following:

(i) The order of income withholding shall not take effect immediately.

(ii) An alternative payment arrangement.

(iii) The payer shall keep the office of the friend of the court informed of both of the following:

(A) The name and address of his or her current source of income.

(B) Any health care coverage that is available to him or her as a benefit of employment or that is maintained by him or her; the name of the insurance company, health care organization, or health maintenance organization; the policy, certificate, or contract number; and names and birth dates of the persons for whose benefit he or she maintains health care coverage under the policy, certificate, or contract.

(4) Except as otherwise provided in subsection (3)(a) or (b), an order of income withholding in an ex parte interim support order shall take effect after the expiration of 14 days after the order has been served on the opposite party unless the opposite party files a written objection to the ex parte interim support order during that 14-day period.

(5) An order of income withholding that does not take effect immediately pursuant to this section shall take effect when the requirement of section 7 is met.

(6) The court for cause or at the request of the payer may order the withholding of income to take effect immediately.

(7) An order of income withholding in a support order entered on or before December 31, 1990, shall take effect when the requirement of section 7 is met.

Sec. 19. (1) If the court awards to the payer sole custody of a child for whom the payer has been previously ordered to pay support and a previously accumulated arrearage under the support order for that child does not exist, the court shall modify any existing support order to exclude support ordered to be paid by that payer for that particular child. If an existing support order does not provide for support to any other child of whom the payer does not have custody, for support to a former spouse, or for payments of confinement or pregnancy expenses, the court shall terminate the order of income withholding as soon as any previously accumulated arrearage has been paid.

(2) The court shall suspend or terminate an order of income withholding under any of the following circumstances:

(a) The location of the child and custodial parent cannot be determined by the friend of the court for a period of 90 days or more.

(b) The court determines that there is no further support obligation.

(c) When otherwise determined by the court, upon a showing of good cause, and if the court determines that such suspension or termination is not contrary to the best interests of the child. In making a determination under this subdivision, the court may consider the previous payment record of the payer, evidence of the payer's intent to make regular and timely support payments, and any other factors considered relevant by the court. However, the payment of arrearages under the support order shall not be the sole reason for termination of an order of income withholding.

(d) The parties enter into a written agreement that is reviewed and entered in the record by the court that provides for all of the following:

(i) The order of income withholding shall be suspended.

(ii) An alternative payment arrangement.

(iii) The payer shall keep the office of the friend of the court informed of both of the following:

(A) The name and address of his or her current source of income.

(B) Any health care coverage that is available to him or her as a benefit of employment or that is maintained by him or her; the name of the insurance company, health care organization, or health maintenance organization; the policy, certificate, or contract number; and names and birth dates of the persons for whose benefit he or she maintains health care coverage under the policy, certificate, or contract.

(3) The parties shall not enter into a written agreement pursuant to subsection (2)(d) if either of the following circumstances exists:

(i) There is a support arrearage.

(ii) An order of income withholding was previously suspended or terminated and subsequently implemented due to the payer's failure to pay support.

(4) If a written agreement is entered into pursuant to subsection (2)(d), the order of income withholding shall take effect when the requirement of section 7 is met.

(5) The court may suspend or terminate an order of income withholding if the custodial parent moves out of the state without court authorization.

(6) The office of the friend of the court shall promptly refund money that has been improperly withheld.

Section 2. This amendatory act shall take effect January 1, 1993.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.