

HOUSE BILL No. 5611

March 4, 1992, Introduced by Reps. Perry Bullard, Nye and Strand
and referred to the Committee on Judiciary.

A bill to amend sections 4 and 19 of Act No. 295 of the
Public Acts of 1982, entitled as amended
"Support and visitation enforcement act,"
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:

1 Section 1. Sections 4 and 19 of Act No. 295 of the Public
2 Acts of 1982, as amended by Act No. 296 of the Public Acts of
3 1990, being sections 552.604 and 552.619 of the Michigan Compiled
4 Laws, are amended to read as follows:

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

8 (2) Each support order entered by the circuit court on or
9 before July 1, 1983 shall be considered to provide for an order

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

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

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

18 (i) A written and specific finding by the court why immedi-
19 ate income withholding would not be in the best interests of the
20 child.

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

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

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

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

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

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

13 (ii) An alternative payment arrangement.

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

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

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

25 ~~(4) The parties shall not enter into a written agreement~~
26 ~~pursuant to subsection (3)(b) if the recipient of support is a~~

1 ~~recipient of public assistance or if an arrearage is payable to~~
2 ~~the state.~~

3 ~~(5) If a written agreement is entered into pursuant to~~
4 ~~subsection (3)(b) and the recipient of support subsequently~~
5 ~~becomes a recipient of public assistance, the written agreement~~
6 ~~shall be null and void.~~

7 (4) ~~-(6)-~~ Except as otherwise provided in subsection (3)(a)
8 or (b), an order of income withholding in an ex parte interim
9 support order shall take effect after the expiration of 14 days
10 after the order has been served on the opposite party unless the
11 opposite party files a written objection to the ex parte interim
12 support order during that 14-day period.

13 (5) ~~-(7)-~~ An order of income withholding that does not take
14 effect immediately pursuant to this section shall take effect
15 when the requirement of section 7 is met.

16 (6) ~~-(8)-~~ The court for cause or at the request of the payer
17 may order the withholding of income to take effect immediately.

18 (7) ~~-(9)-~~ An order of income withholding in a support order
19 entered on or before December 31, 1990, shall take effect when
20 the requirement of section 7 is met.

21 Sec. 19. (1) If the court awards to the payer sole custody
22 of a child for whom the payer has been previously ordered to pay
23 support and a previously accumulated arrearage under the support
24 order for that child does not exist, the court shall modify any
25 existing support order to exclude support ordered to be paid by
26 that payer for that particular child. If an existing support
27 order does not provide for support to any other child of whom the

1 payer does not have custody, for support to a former spouse, or
2 for payments of confinement or pregnancy expenses, the court
3 shall terminate the order of income withholding as soon as any
4 previously accumulated arrearage has been paid.

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

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

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

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

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

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

26 (ii) An alternative payment arrangement.

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

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

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

12 (3) The parties shall not enter into a written agreement
13 pursuant to subsection (2)(d) if ~~any~~ EITHER of the following
14 circumstances ~~exist~~ EXISTS:

15 (i) There is a support arrearage.

16 ~~(ii) The recipient of support is a recipient of public~~
17 ~~assistance.~~

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

21 (4) If a written agreement is entered into pursuant to
22 subsection (2)(d), ~~both of the following shall apply: (a) The~~
23 THE order of income withholding shall take effect when the
24 requirement of section 7 is met.

25 ~~(b) If the recipient of support becomes a recipient of~~
26 ~~public assistance, the written agreement shall be null and void.~~

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

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