



SENATE BILL No. 643

September 13, 1995, Introduced by Senator DINGELL
and referred to the Committee on Families, Mental
Health and Human Services.

A bill to amend sections 17 and 17b of Act No. 294 of the
Public Acts of 1982, entitled as amended
"Friend of the court act,"
section 17 as amended and section 17b as added by Act No. 37 of
the Public Acts of 1994, being sections 552.517 and 552.517b of
the Michigan Compiled Laws; and to add section 17e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 17 and 17b of Act No. 294 of the Public
2 Acts of 1982, section 17 as amended and section 17b as added by
3 Act No. 37 of the Public Acts of 1994, being sections 552.517 and
4 552.517b of the Michigan Compiled Laws, are amended and section
5 17e is added to read as follows:

6 Sec. 17. (1) ~~After a final judgment containing~~ SUBJECT TO
7 SECTION 17E, THE OFFICE SHALL PERIODICALLY REVIEW a child support
8 order ~~has been~~ CONTAINED IN A FINAL JUDGMENT entered in a

1 domestic relations matter. ~~the~~ THE office shall
2 ~~periodically~~ review the order ~~as~~ as follows:

3 (a) If a child is being supported in whole or in part by
4 public assistance, not less than once each 24 months unless both
5 of the following apply:

6 (i) The office receives notice from the department of social
7 services that good cause exists not to proceed with support
8 action.

9 (ii) Neither party has requested a review.

10 (b) At the initiative of the office, if there are reasonable
11 grounds to believe that the amount of child support awarded in
12 the judgment should be modified or that dependent health care
13 coverage is available and the support order should be modified to
14 include an order for health care coverage. Reasonable grounds to
15 review an order pursuant to this subdivision include temporary or
16 permanent changes in the physical custody of a child that the
17 court has not ordered, increased or decreased need of the child,
18 probable access by an employed parent to dependent health care
19 coverage, or changed financial conditions of a recipient or a
20 payer of child support including, but not limited to, application
21 for or receipt of public assistance, unemployment compensation,
22 or worker's compensation.

23 (C) IMMEDIATELY UPON RECEIPT BY THE OFFICE OF NOTICE THAT
24 THE CHILD SUPPORT PAYOR HAS APPLIED FOR OR IS ELIGIBLE FOR UNEM-
25 PLOYMENT COMPENSATION.

1 (D) ~~(c)~~ Upon receipt of a written request from either
2 party. ~~Within 15 days after receipt of the review request, the~~
3 EXCEPT AS PROVIDED IN SECTION 17E, BOTH OF THE FOLLOWING APPLY:

4 (i) THE office shall determine whether the order is due for
5 review WITHIN 15 DAYS AFTER RECEIPT OF THE REVIEW REQUEST.

6 (ii) The office is not required to investigate more than 1
7 request received from a party each 24 months.

8 (E) ~~(d)~~ If a child is receiving medical assistance, not
9 less than once each 24 months unless either of the following
10 applies:

11 (i) The order requires provision of health care coverage for
12 the child and neither party has requested a review.

13 (ii) The office receives notice from the department of
14 social services that good cause exists not to proceed with sup-
15 port action and neither party has requested a review.

16 (F) ~~(e)~~ If requested by the initiating state for a recipi-
17 ent of services in that state under ~~Part~~ PART D of title IV of
18 the social security act, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 651
19 to 669, not less than once each 24 months. Within 15 days after
20 receipt of a review request, the office shall determine whether
21 an order is due for review.

22 (2) ~~Within~~ EXCEPT AS PROVIDED IN SECTION 17E, WITHIN
23 180 days after determining that a review is required under sub-
24 section (1), the office shall send notices as provided in
25 section 17b(2) and (3), conduct a review, and obtain a modifica-
26 tion of the order if appropriate.

1 (3) The office shall use the child support formula developed
2 by the bureau under section 19 in calculating the child support
3 award. If the office determines from the facts of the case that
4 application of the child support formula would be unjust or inap-
5 propriate, or that income should not be based on actual income
6 earned by the parties, the office shall prepare a written report
7 that includes all of the following:

8 (a) The support amount, based on actual income earned by the
9 parties, determined by application of the child support formula
10 and all factual assumptions upon which that support amount is
11 based.

12 (b) An alternative support recommendation and all factual
13 assumptions upon which the alternative support recommendation is
14 based.

15 (c) How the alternative support recommendation deviates from
16 the child support formula.

17 (d) The reasons for the alternative support recommendation.

18 (e) All evidence known to the friend of the court that the
19 individual is or is not able to earn the income imputed to him or
20 her.

21 (4) The office shall petition the court if modification is
22 determined to be necessary under subsection (3) unless either of
23 the following applies:

24 (a) The difference between the existing and projected child
25 support award is within the minimum threshold for modification of
26 a child support amount as established by the formula.

1 (b) The court previously determined that application of the
2 formula was unjust or inappropriate and the office determines
3 under subsection (3) that the facts of the case and the reasons
4 and amount of the prior deviation remain unchanged.

5 (5) A petition for modification may be made at the same time
6 the parties are provided with notice under section 17b(3). ~~A~~
7 EXCEPT AS PROVIDED IN SECTION 17E, A hearing held on a proposed
8 modification shall be scheduled no earlier than 30 days after the
9 date of the notice provided for in section 17b(3).

10 (6) If the office determines there should be no change in
11 the order and a party ~~objects~~ PROVIDES THE OFFICE WITH A WRIT-
12 TEN OBJECTION to the determination ~~in writing to the office~~
13 PURSUANT TO SECTION 17B(3) within 30 days after the date of the
14 notice provided for in section 17b(3), the office shall schedule
15 a hearing before the court.

16 (7) If a support order lacks provisions for health care cov-
17 erage, the office shall petition the court for a modification to
18 require that 1 or both parents obtain or maintain health care
19 coverage for the benefit of each child who is subject to the sup-
20 port order if either of the following is true:

21 (a) Either parent has health care coverage available, as a
22 benefit of employment, for the benefit of the child at a reason-
23 able cost.

24 (b) Either parent is self-employed, maintains health care
25 coverage for himself or herself, and can obtain health care cov-
26 erage for the benefit of the child at a reasonable cost.

1 (8) The office shall determine the costs to each parent for
2 dependent health care coverage and child care costs and shall
3 disclose those costs in the report under section 17b(4).

4 Sec. 17b. (1) Each party subject to a child support order
5 shall be notified of the right to request a review of the order
6 as provided in section 17 OR 17E, and the place and manner in
7 which to make the request. For a domestic relations matter ini-
8 tiated on or after ~~90 days after the effective date of this~~
9 ~~section~~ JUNE 5, 1994, the notice shall be provided by the office
10 or, pursuant to court rule, by the plaintiff, using the informa-
11 tional pamphlet required under section 5. Unless notice is pro-
12 vided to the party in the informational pamphlet, BEGINNING no
13 later than ~~180 days after the effective date of this section~~
14 SEPTEMBER 3, 1994, the office in each judicial circuit shall send
15 a notice to each party subject to a child support order informing
16 the party of the right to request a review of the order. The
17 notice shall be sent to the party's last known address.

18 (2) ~~The~~ EXCEPT AS PROVIDED IN SECTION 17E, THE office
19 shall notify each party of a review of a child support order
20 under section 17 at least 30 days before the review is
21 conducted. The notice shall request income, expense, or other
22 information as needed from the party to conduct the review and
23 shall specify the date by which that information is due. The
24 notice shall be sent to each party to his or her last known
25 address.

26 (3) ~~After~~ EXCEPT AS PROVIDED IN SECTION 17E, AFTER a
27 review of a child support order, ~~has been conducted,~~ the office

1 shall notify each party of a proposed increase or decrease in the
2 amount of child support, a proposed modification to order health
3 care coverage, or a determination that there should be no change
4 in the order. Notice of an increase or decrease in child support
5 or a modification to order health care coverage can be provided
6 by or with a copy of the petition for modification. The notice
7 shall also inform the parties of both of the following:

8 (a) That the party may object to the proposed modification
9 or determination that there should be no change in the order at a
10 hearing before a referee or the court.

11 (b) The time, place, and manner in which to raise
12 objections.

13 (4) The office shall make available to each party and his or
14 her attorney a copy of the written report, transcript, recommen-
15 dation, and supporting documents or a summary of supporting docu-
16 ments prepared or used by the office under section 17 OR 17E
17 before the court modifies a support order.

18 SEC. 17E. (1) UPON RECEIPT OF WRITTEN NOTICE THAT THE PAYOR
19 IDENTIFIED IN A CHILD SUPPORT ORDER HAS APPLIED FOR OR IS ELIGI-
20 BLE TO RECEIVE UNEMPLOYMENT COMPENSATION, THE OFFICE SHALL IMME-
21 DIATELY REVIEW THE FACTS UPON WHICH THE CHILD SUPPORT ORDER WAS
22 BASED AND DETERMINE WHETHER MODIFICATION OF THAT ORDER, OR ENTRY
23 OF AN ORDER OF INCOME WITHHOLDING RELATING TO UNEMPLOYMENT COM-
24 PENSATION, IS REQUIRED. IF THE OFFICE DETERMINES THAT AN ORDER
25 MODIFYING CHILD SUPPORT OR PROVIDING FOR INCOME WITHHOLDING IS
26 REQUIRED, THE OFFICE SHALL PROVIDE IMMEDIATE WRITTEN NOTICE OF
27 THAT DETERMINATION TO THE COURT AND TO THE PARTIES.

1 (2) IF, UPON RECEIPT OF A DETERMINATION DESCRIBED IN
2 SUBSECTION (1), THE COURT DETERMINES THAT AN ORDER OF CHILD SUP-
3 PORT MODIFICATION OR AN ORDER OF INCOME WITHHOLDING IS REQUIRED,
4 THE COURT SHALL IMMEDIATELY ENTER THE APPROPRIATE ORDER. THE
5 AMOUNT WITHHELD FROM UNEMPLOYMENT COMPENSATION UNDER AN ORDER OF
6 INCOME WITHHOLDING SHALL BE CALCULATED IN ACCORDANCE WITH THE
7 CHILD SUPPORT FORMULA DEVELOPED UNDER SECTION 19.

8 (3) A PARTY MAY FILE WITH THE COURT A WRITTEN OBJECTION TO
9 AN ORDER ENTERED UNDER SUBSECTION (2). AT THE TIME OF FILING,
10 THE PARTY SHALL ALSO SERVE THE OTHER PARTY AND THE OFFICE WITH A
11 COPY OF THE WRITTEN OBJECTION, AND PROVIDE THE COURT WITH PROOF
12 OF THAT SERVICE.

13 (4) THE COURT SHALL CONDUCT A HEARING ON A WRITTEN OBJECTION
14 DESCRIBED IN SUBSECTION (3) NOT MORE THAN 15 DAYS AFTER THE
15 FILING OF THAT WRITTEN OBJECTION, AND FOLLOWING THE HEARING SHALL
16 ENTER AN ORDER MODIFYING, DISSOLVING, OR RETAINING THE ORDER
17 DESCRIBED IN SUBSECTION (2).

18 (5) AS USED IN THIS SECTION, "ORDER OF INCOME WITHHOLDING"
19 MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE SUPPORT AND VISI-
20 TATION ENFORCEMENT ACT, ACT NO. 295 OF THE PUBLIC ACTS OF 1982,
21 BEING SECTION 552.602 OF THE MICHIGAN COMPILED LAWS.