

Act No. 65
Public Acts of 1998
Approved by the Governor
April 27, 1998
Filed with the Secretary of State
April 27, 1998
EFFECTIVE DATE: April 27, 1998

STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Senator Geake

ENROLLED SENATE BILL No. 793

AN ACT to amend 1996 PA 310, entitled "An act to make uniform the laws relating to interstate family support enforcement; and to repeal acts and parts of acts," by amending sections 103, 104, 224, 231, 306, 308, 310, 312, 501, 621, 623, and 635 (MCL 552.1103, 552.1104, 552.1224, 552.1231, 552.1306, 552.1308, 552.1310, 552.1312, 552.1501, 552.1621, 552.1623, and 552.1635) and by adding sections 501a, 501b, 501c, 501d, 638, and 639.

The People of the State of Michigan enact:

Sec. 103. As used in this act:

(a) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under this state's law.

(b) "Income withholding order" means legal process directed to an obligor's employer or other debtor to withhold support from the obligor's income.

(c) "Initiating state" means a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under this act or a law or procedure substantially similar to this act, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.

(d) "Initiating tribunal" means the authorized tribunal in an initiating state.

(e) "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(f) "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage.

(g) "Law" includes decisional and statutory law, and rules and regulations having the force of law.

(h) "L.E.I.N." means the law enforcement information network administered under the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(i) "Obligee" means any of the following:

(i) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered.

(ii) A state or political subdivision to which the rights under a duty of support or support order have been assigned or that has independent claims based on financial assistance provided to an individual obligee.

(iii) An individual seeking a judgment determining parentage of the individual's child.

(j) "Obligor" means an individual about whom 1 of the following is true, or the estate of a decedent about whom 1 of the following was true before the individual's death:

- (i) The individual owes or is alleged to owe a duty of support.
- (ii) The individual is alleged, but has not been adjudicated, to be a child's parent.
- (iii) The individual is liable under a support order.

Sec. 104. As used in this act:

- (a) "Register" means to file a support order or judgment determining parentage in the circuit court.
- (b) "Registering tribunal" means a tribunal in which a support order is registered.
- (c) "Responding state" means a state in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating state under this act or a law or procedure substantially similar to this act, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.
- (d) "Responding tribunal" means the authorized tribunal in a responding state.
- (e) "Spousal support order" means a support order for an obligor's spouse or former spouse.
- (f) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. State includes an Indian tribe and a foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders that are substantially similar to the procedures under this act, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.
- (g) "Support enforcement act" means this act, the uniform reciprocal enforcement of support act, the revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183, or another act substantially similar to 1 of those acts that is in effect in this or another state. Support enforcement act includes a former act substantially similar to an act described in this subdivision under which an order was issued or proceeding initiated, which order or proceeding remains operative.
- (h) "Support enforcement agency" means a public official or agency authorized to seek any of the following:
 - (i) Enforcement of support orders or laws relating to the duty of support.
 - (ii) Establishment or modification of child support.
 - (iii) Determination of parentage.
 - (iv) Location of obligors or their assets.
- (i) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, spouse, or former spouse that provides for monetary support, health care, arrearages, or reimbursement and may include related costs and fees, interest, income withholding, attorney fees, and other relief.
- (j) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or determine parentage.

Sec. 224. (1) A tribunal of this state that issues a support order consistent with this state's law has continuing, exclusive jurisdiction over a child support order in either of the following circumstances:

- (a) As long as this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued.
 - (b) Until all parties who are individuals have filed written consent with this state's tribunal for another state's tribunal to modify the order and assume continuing, exclusive jurisdiction.
- (2) A tribunal of this state that issues a child support order consistent with this state's law shall not exercise its continuing jurisdiction to modify the order if the order has been modified by another state's tribunal under a law substantially similar to this act.
- (3) If a child support order of this state is modified by another state's tribunal under a law substantially similar to this act, this state's tribunal loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state and may only do 1 or more of the following:
- (a) Enforce the order that was modified as to amounts accruing before the modification.
 - (b) Enforce nonmodifiable aspects of that order.
 - (c) Provide other appropriate relief for violations of that order that occurred before the modification's effective date.
- (4) This state's tribunal shall recognize the continuing, exclusive jurisdiction of a tribunal of another state that issues a child support order under a law substantially similar to this act.
- (5) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(6) A tribunal of this state that issues a support order consistent with this state's law has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. This state's tribunal shall not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

Sec. 231. (1) If a proceeding is brought under this act and only 1 tribunal has issued a child support order, the order of that tribunal controls and shall be recognized.

(2) If a proceeding is brought under this act and 2 or more child support orders have been issued by tribunals of this state or another state for the same obligor and child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(a) If only 1 of the tribunals would have continuing, exclusive jurisdiction under this act, the order of that tribunal controls and shall be recognized.

(b) If more than 1 of the tribunals would have continuing, exclusive jurisdiction under this act, an order issued by a tribunal in the current home state of the child controls and shall be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued controls and shall be recognized.

(c) If none of the tribunals would have continuing, exclusive jurisdiction under this act, the tribunal of this state having jurisdiction over the parties shall issue a child support order, which controls and shall be recognized.

(3) If 2 or more child support orders have been issued for the same obligor and child and if the obligor or the individual obligee resides in this state, a party may request a tribunal of this state to determine which order controls and is recognized under subsection (2). The request shall be accompanied by a certified copy of every support order in effect. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(4) The tribunal that issued the controlling order under subsection (1), (2), or (3) is the tribunal that has continuing, exclusive jurisdiction under this act.

(5) A tribunal of this state that determines by order the identity of the controlling order under subsection (2)(a) or (b) or that issues a new controlling order under subsection (2)(c) shall state in that order the basis upon which the tribunal made its determination.

(6) Within 30 days after issuance of an order determining the identity of the controlling order, the party obtaining the order shall file a certified copy of it with each tribunal that issued or registered an earlier order of child support. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

Sec. 306. (1) Upon filing of a petition authorized by this act, an initiating tribunal of this state shall forward 3 copies of the petition and its accompanying documents to each of the following:

(a) The responding tribunal or appropriate support enforcement agency in the responding state.

(b) If the responding tribunal's identity is unknown, the responding state's information agency with a request that the copies and documents be forwarded to the appropriate tribunal and that receipt be acknowledged.

(2) If a responding state has not enacted the uniform interstate family support act or a law or procedures substantially similar to this act, a tribunal of this state may issue a certificate or other document and make findings required by the law of the responding state. If the responding state is a foreign jurisdiction, the tribunal may specify the amount of support sought and provide other documents necessary to satisfy the requirements of the responding state.

Sec. 308. (1) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly under section 301, the tribunal shall do all of the following:

(a) Cause the petition or pleading to be filed.

(b) Notify the petitioner by first-class mail where and when it was filed.

(c) Notify the prosecuting attorney or the office of the friend of the court. If notified under this subdivision, the prosecuting attorney or friend of the court shall conduct proceedings as appropriate under this act.

(2) A responding tribunal of this state, to the extent otherwise authorized by law, may do 1 or more of the following:

(a) Issue or enforce a support order, modify a child support order, or render a judgment to determine parentage.

(b) Order an obligor to comply with a support order, specifying the amount and the manner of compliance.

(c) Order income withholding.

(d) Determine the amount of an arrearage and specify a method of payment.

(e) Enforce an order by civil or criminal contempt, or both.

(f) Set aside property for satisfaction of a support order.

- (g) Place liens and order execution on an obligor's property.
 - (h) Order an obligor to keep the tribunal informed of the obligor's current residential address and telephone number, employer, and employment address and telephone number.
 - (i) Issue a bench warrant for an obligor who fails after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in the L.E.I.N.
 - (j) Order an obligor to seek appropriate employment by specified methods.
 - (k) Award reasonable attorney fees and other fees and costs.
 - (l) Grant another available remedy.
- (3) A responding tribunal of this state shall include in a support order issued under this act or in the documents accompanying the order the calculations on which the support order is based.
- (4) A responding tribunal of this state shall not condition the payment of a support order issued under this act upon compliance by a party with provisions for parenting time.
- (5) If a responding tribunal of this state issues an order under this act, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.

Sec. 310. If a petition or comparable pleading is received by an inappropriate tribunal of this state, the tribunal shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner where and when the pleading was sent.

Sec. 312. (1) Upon request, a support enforcement agency of this state, or upon the support enforcement agency's request, the prosecuting attorney or office of the friend of the court, shall provide services to a petitioner in a proceeding under this act. A support enforcement agency, prosecuting attorney, or office of the friend of the court that is providing services to the petitioner as appropriate shall do all of the following:

- (a) Take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent.
- (b) Request an appropriate tribunal to set a hearing date, time, and place.
- (c) Make a reasonable effort to obtain all relevant information, including information as to the parties' income and property.
- (d) Within 2 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner.
- (e) Within 2 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication to the petitioner.
- (f) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

(2) This act does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Sec. 501. (1) An income withholding order issued in another state may be sent to the obligor's employer without first filing a petition or comparable pleading or registering the order with this state's tribunal. Upon receipt of an income withholding order, the obligor's employer shall do all of the following:

- (a) Treat an income withholding order issued in another state that appears regular on its face as if the order had been issued by this state's tribunal.
 - (b) Immediately provide a copy of the order to the obligor.
- (2) Except as otherwise provided in subsection (3) and section 501a, the employer shall withhold and distribute the funds directed in the withholding order by complying with the terms of the order that specify the following:
- (a) The duration and amount of periodic payments of current child support, stated as a sum certain.
 - (b) The person or agency designated to receive payments and the address where the payments are to be forwarded.
 - (c) Medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health coverage for the child under coverage available through the obligor's employment.
 - (d) The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain.
 - (e) The amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.
- (3) An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income for all of the following:
- (a) The employer's fee for processing an income withholding order.

- (b) The maximum amount permitted to be withheld from the obligor's income.
- (c) The time within which the employer must implement the withholding order and forward the child support payment.

Sec. 501a. If an obligor's employer receives multiple income withholding orders for the same obligor, the employer satisfies the terms of the multiple orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for multiple child support obligees.

Sec. 501b. An employer who complies with an income withholding order issued in another state in accordance with this article is not subject to civil liability to an individual or agency for the employer's withholding of child support from the obligor's income.

Sec. 501c. An employer who willfully fails to comply with an income withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

Sec. 501d. An obligor may contest the validity or enforcement of an income withholding order issued in another state and received directly by an employer in this state in the same manner as if the order had been issued by this state's tribunal. Section 605 applies to the contest. The obligor shall give notice of the contest to a support enforcement agency providing services to the obligee, to each employer that has directly received an income withholding order, and to the person or agency designed to receive payments in the income withholding order or, if no person or agency is designated, to the obligee.

Sec. 621. (1) When a support order or income withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. The notice shall be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(2) The notice shall inform the nonregistering party of all of the following:

(a) That a registered order is enforceable as of the registration date in the same manner as an order issued by this state's tribunal.

(b) That a hearing to contest the validity or enforcement of the registered order shall be requested within 20 days after the date of mailing or personal service of the notice.

(c) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation and enforcement of the order and the alleged arrearages, and precludes further contest of that order with respect to a matter that could have been asserted.

(d) The amount of alleged arrearages.

(3) Upon registration of an income withholding order for enforcement, the registering tribunal shall notify the obligor's employer as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.

Sec. 623. (1) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within 20 days after the date of mailing or personal service of notice of the registration. The nonregistering party may seek to vacate the registration, to assert a defense to an allegation of noncompliance with the registered order, or to contest a remedy being sought or the amount of an alleged arrearage as provided in section 625.

(2) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law. If a nonregistered party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the hearing date, time, and place.

Sec. 635. (1) After another state's child support order is registered in this state, the responding tribunal of this state may modify that order only if section 231 does not apply and, after notice and hearing, the tribunal finds 1 of the following:

(a) All of the following requirements are met:

(i) The child, the individual obligee, and the obligor do not reside in the issuing state.

(ii) A petitioner who is a nonresident of this state seeks modification.

(iii) The respondent is subject to the personal jurisdiction of this state's tribunal.

(b) The child, or a party who is an individual, is subject to the personal jurisdiction of the tribunal of this state and all of the parties who are individuals have filed written consent in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction over the order. However, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under

this act, the consent otherwise required of an individual residing in this state is not required for the tribunal to assume jurisdiction to modify the child support order.

(2) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by this state's tribunal, and the order may be enforced and satisfied in the same manner. This state's tribunal shall not modify an aspect of a child support order that cannot be modified under the issuing state's law. If 2 or more tribunals have issued child support orders for the same obligor and child, the order that controls and shall be recognized under this act establishes the aspects of the support order that are nonmodifiable.

(3) On issuance of an order modifying a child support order issued in another state, this state's tribunal becomes the tribunal of continuing, exclusive jurisdiction.

Sec. 638. (1) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(2) A tribunal of this state exercising jurisdiction under this section shall apply the provisions of articles I and II, this article, and the procedural and substantive law of this state to the proceedings for enforcement or modification. Articles III, IV, V, VII, and VIII do not apply.

Sec. 639. Within 30 days after issuance of a modified child support order, the party obtaining the modifications shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order and in each tribunal in which the party knows the earlier order is registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Mary R. Bello

Clerk of the House of Representatives.

Approved _____

Governor.