

# HOUSE BILL No. 4818

June 17, 1999, Introduced by Reps. Woronchak and Hart and referred to the Committee on Family and Children Services.

A bill to amend 1982 PA 295, entitled "Support and parenting time enforcement act," by amending sections 2, 9, 11a, 32, and 37 (MCL 552.602, 552.609, 552.611a, 552.632, and 552.637), sections 2, 9, and 11a as amended by 1998 PA 334 and section 32 as amended by 1996 PA 301.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

- 1       Sec. 2. As used in this act:
- 2       (a) "Account" means any of the following:
- 3       (i) A demand deposit account.
- 4       (ii) A draft account.
- 5       (iii) A checking account.
- 6       (iv) A negotiable order of withdrawal account.
- 7       (v) A share account.
- 8       (vi) A savings account.

- 1 (vii) A time savings account.
- 2 (viii) A mutual fund account.
- 3 (ix) A securities brokerage account.
- 4 (x) A money market account.
- 5 (xi) A retail investment account.
- 6 (b) "Account" does not mean any of the following:
- 7 (i) A trust.
- 8 (ii) An annuity.
- 9 (iii) A qualified individual retirement account.
- 10 (iv) An account covered by the employee retirement income  
11 security act of 1974, Public Law 93-406, 88 Stat. 829.
- 12 (v) A pension or retirement plan.
- 13 (vi) An insurance policy.
- 14 (c) "Address" means the primary address shown on the records  
15 of a financial institution used by the financial institution to  
16 contact the account holder.
- 17 (D) "DEPARTMENT" MEANS THE FAMILY INDEPENDENCE AGENCY.
- 18 (E) ~~(d)~~ "Driver's license" means license as that term is  
19 defined in section 25 of the Michigan vehicle code, 1949 PA 300,  
20 MCL 257.25.
- 21 (F) ~~(e)~~ "Employer" means an individual, sole proprietor-  
22 ship, partnership, association, or private or public corporation,  
23 the United States or a federal agency, this state or a political  
24 subdivision of this state, another state or a political subdivi-  
25 sion of another state, or another legal entity that hires and  
26 pays an individual for his or her services.

- 1       (G) ~~(f)~~ "Financial asset" means a deposit, account, money  
2 market fund, stock, bond, or similar instrument.
- 3       (H) ~~(g)~~ "Financial institution" means any of the  
4 following:
- 5       (i) A state or national bank.
- 6       (ii) A state or federally chartered savings and loan  
7 association.
- 8       (iii) A state or federally chartered savings bank.
- 9       (iv) A state or federally chartered credit union.
- 10      (v) An insurance company.
- 11      (vi) An entity that offers any of the following to a resi-  
12 dent of this state:
- 13      (A) A mutual fund account.
- 14      (B) A securities brokerage account.
- 15      (C) A money market account.
- 16      (D) A retail investment account.
- 17      (vii) An entity regulated by the securities and exchange  
18 commission that collects funds from the public.
- 19      (viii) An entity that is a member of the national associa-  
20 tion of securities dealers and that collects funds from the  
21 public.
- 22      (ix) Another entity that collects funds from the public.
- 23      (I) ~~(h)~~ "Friend of the court act" means 1982 PA 294, MCL  
24 552.501 to 552.535.
- 25      (J) ~~(i)~~ "Income" means any of the following:

1       (i) Commissions, earnings, salaries, wages, and other income  
2 due or to be due in the future to an individual from his or her  
3 employer and successor employers.

4       (ii) A payment due or to be due in the future to an individ-  
5 ual from a profit-sharing plan, a pension plan, an insurance con-  
6 tract, an annuity, social security, unemployment compensation,  
7 supplemental unemployment benefits, or worker's compensation.

8       (iii) An amount of money that is due to an individual as a  
9 debt of another individual, partnership, association, or private  
10 or public corporation, the United States or a federal agency,  
11 this state or a political subdivision of this state, another  
12 state or a political subdivision of another state, or another  
13 legal entity that is indebted to the individual.

14       (K) ~~(j)~~ "Insurer" means an insurer, health maintenance  
15 organization, health care corporation, or other group, plan, or  
16 entity that provides health care coverage in accordance with any  
17 of the following acts:

18       (i) The public health code, 1978 PA 368, MCL 333.1101 to  
19 333.25211.

20       (ii) The insurance code of 1956, 1956 PA 218, MCL 500.100 to  
21 500.8302.

22       (iii) The nonprofit health care corporation reform act, 1980  
23 PA 350, MCL 550.1101 to 550.1704.

24       (l) ~~(k)~~ "Medical assistance" means medical assistance as  
25 established under title XIX of the social security act, chapter  
26 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396f, 1396g-1 to 1396r-6,  
27 and 1396r-8 to 1396v.

1           (M) ~~(i)~~ "Occupational license" means a certificate,  
2 registration, or license issued by a state department, bureau, or  
3 agency that has regulatory authority over an individual that  
4 allows an individual to legally engage in a regulated occupation  
5 or that allows the individual to use a specific title in the  
6 practice of an occupation, profession, or vocation.

7           (N) ~~(m)~~ "Office of child support" means the office of  
8 child support established in section 2 of the office of child  
9 support act, 1971 PA 174, MCL 400.232.

10          (O) ~~(n)~~ "Office of the friend of the court" means ~~the~~ AN  
11 agency created in section 3 of the friend of the court act, MCL  
12 552.503.

13          (P) ~~(o)~~ "Order of income withholding" means an order  
14 entered by the circuit court providing for the withholding of a  
15 payer's income to enforce a support order under this act.

16          (Q) ~~(p)~~ "Payer" means an individual who is ordered by the  
17 circuit court to pay support.

18          (R) ~~(q)~~ "Plan administrator" means that term as used in  
19 relation to a group health plan under section 609 of part 6 of  
20 subtitle B of title I of the employee retirement income security  
21 act of 1974, Public Law 93-406, 29 U.S.C. 1169, if the health  
22 care coverage plan of the individual who is responsible for pro-  
23 viding a child with health care coverage is subject to that act.

24          (S) ~~(r)~~ "Political subdivision" means a county, city, vil-  
25 lage, township, educational institution, school district, or spe-  
26 cial district or authority of the state or of a local unit of  
27 government.

1 (T) ~~(s)~~ "Recipient of support" means the following:

2 (i) The spouse, if the support order orders spousal  
3 support.

4 (ii) The custodial parent or guardian, if the support order  
5 orders support for a minor child or a child who is 18 years of  
6 age or older.

7 (iii) The ~~family independence agency~~ DEPARTMENT, if sup-  
8 port has been assigned to that department.

9 (U) ~~(t)~~ "Recreational or sporting license" means a hunt-  
10 ing, fishing, or fur harvester's license issued under the natural  
11 resources and environmental protection act, 1994 PA 451, MCL  
12 324.101 to 324.90106, but does not include a commercial fishing  
13 license or permit issued under part 473 of the natural resources  
14 and environmental protection act, 1994 PA 451, MCL 324.47301 to  
15 324.47362.

16 (V) ~~(u)~~ "Referee" means a person who is designated as a  
17 referee under the friend of the court act.

18 (W) ~~(v)~~ "Source of income" means an employer or successor  
19 employer or another individual or entity that owes or will owe  
20 income to the payer.

21 (X) "STATE DISBURSEMENT UNIT" OR "SDU" MEANS THE ENTITY  
22 ESTABLISHED IN SECTION 6 OF THE OFFICE OF CHILD SUPPORT ACT, 1971  
23 PA 174, MCL 400.236.

24 (Y) ~~(w)~~ "Support" means all of the following:

25 (i) The payment of money for a child or a spouse ordered by  
26 the circuit court, whether the order is embodied in an interim,  
27 temporary, permanent, or modified order or judgment. Support may

1 include payment of the expenses of medical, dental, and other  
2 health care, child care expenses, and educational expenses.

3 (ii) The payment of money ordered by the circuit court under  
4 the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the  
5 necessary expenses incurred by or for the mother in connection  
6 with her confinement or of other expenses in connection with the  
7 pregnancy of the mother.

8 (iii) A surcharge accumulated under section 3a.

9 (Z) ~~(x)~~ "Support order" means an order entered by the cir-  
10 cuit court for the payment of support, whether or not a sum  
11 certain.

12 (AA) ~~(y)~~ "Work activity" means any of the following:

13 (i) Unsubsidized employment.

14 (ii) Subsidized private sector employment.

15 (iii) Subsidized public sector employment.

16 (iv) Work experience, including work associated with the  
17 refurbishing of publicly assisted housing, if sufficient private  
18 sector employment is not available.

19 (v) On-the-job training.

20 (vi) Job search and job readiness assistance.

21 (vii) Community service programs.

22 (viii) Vocational educational training, not to exceed 12  
23 months with respect to ~~any~~ AN individual.

24 (ix) Job skills training directly related to employment.

25 (x) Education directly related to employment, in the case of  
26 an individual who has not received a high school diploma or a  
27 certificate of high school equivalency.

1           (xi) Satisfactory attendance at secondary school or in a  
2 course of study leading to a certificate of general equivalence,  
3 in the case of an individual who has not completed secondary  
4 school or received such a certificate.

5           (xii) The provisions of child care services to an individual  
6 who is participating in a community service program.

7           Sec. 9. A notice of income withholding entered under this  
8 act shall be served on sources of income as provided in section  
9 11. The notice shall direct sources of income to withhold from  
10 income due the payer ~~and to pay to the office of the friend of~~  
11 ~~the court for the judicial circuit in which the order was~~  
12 ~~entered~~ an amount sufficient to meet the payments ordered for  
13 support and service fees, and to defray arrearages in payments  
14 and service fees due at the time the order of income withholding  
15 takes effect. The notice shall also direct that the amount with-  
16 held for support, fees, and health care coverage premiums shall  
17 not exceed the amount allowed under section 303(b) of title III  
18 of the consumer credit protection act, Public Law 90-321, 15  
19 U.S.C. 1673. The notice shall contain a statement of the  
20 requirements of sections 11, 11a, 12, 13, 14, and 23. The notice  
21 shall also direct that income withheld under the notice for sup-  
22 port and fees shall be paid to the office of the friend of the  
23 court OR TO THE STATE DISBURSEMENT UNIT, AS APPROPRIATE, within 3  
24 days after the date of the withholding.

25           Sec. 11a. (1) If there is more than 1 order to withhold  
26 income for support, fees, or health care coverage premiums  
27 against a payer or parent under this act, the source of income

1 shall comply with all of the notices to withhold income to the  
2 extent that the total amount withheld from the payer's or  
3 parent's income does not exceed the limits imposed under section  
4 303(b) of title III of the consumer credit protection act, Public  
5 Law 90-321, 15 U.S.C. 1673, giving priority to amounts designated  
6 in each notice as current support, as follows:

7       (a) If the total of the amounts designated in the notices as  
8 current support exceeds the amount available for income withhold-  
9 ing, then the source of income shall allocate to each order an  
10 amount for current support equal to the amount designated in the  
11 notice as current support, divided by the total of the amounts  
12 designated in the notices as current support, multiplied by the  
13 amount of income available for income withholding.

14       (b) If the total of the amounts designated in the notices as  
15 current support does not exceed the amount available for income  
16 withholding, then the source of income shall pay the amounts des-  
17 igned as current support, and in addition shall proportionately  
18 allocate to each order an amount for past due support not to  
19 exceed the amount designated in the notice as past due support.  
20 This subdivision does not require the maximum withholding to sat-  
21 isfy past due child or spousal support.

22       (c) If the total amounts allocated to current and past due  
23 support do not exceed the amount available for income withhold-  
24 ing, then the source of income shall allocate the remaining  
25 income to the parent's portion of health care coverage premiums  
26 attributable to coverage of the children specified in the order  
27 if remaining income is sufficient to cover the cost of the

1 premium. This subdivision does not require a source of income to  
2 pay the parent's portion of health care coverage premiums.

3 (2) A source of income is liable for any amount that the  
4 source knowingly and intentionally fails to withhold from the  
5 payer's income following service on the source of income of a  
6 notice of income withholding, except to the extent that the  
7 amount is limited by subsection (1) and section 303(b) of title  
8 III of the consumer credit protection act, Public Law 90-321, 15  
9 U.S.C. 1673.

10 (3) A source of income shall identify each withholding by  
11 payer, payer's social security number, case number, amount with-  
12 held, and the date on which support was withheld from the payer's  
13 income. If the source of income is an employer, it shall ALSO  
14 provide its federal employer identification number. ~~to the~~  
15 ~~office of the friend of the court.~~

16 (4) A source of income may combine amounts withheld from  
17 payers' incomes in a single payment and separately identify by  
18 payer, social security number, and case number the portion of the  
19 single payment that is attributable to each individual payer.

20 Sec. 32. (1) ~~A~~ IF A payer ~~who is~~ arrested under a bench  
21 warrant issued ~~after June 30, 1983,~~ under section 31 ~~and who~~  
22 cannot be brought before the court within 24 hours, THE PAYER may  
23 recognize for his or her appearance by leaving with the sheriff  
24 or deputy sheriff in charge of the county jail a sum of money in  
25 the amount determined by the court and stated in the bench  
26 warrant, but not to exceed the amount of arrearage under the

1 support order that is stated on the bench warrant plus costs that  
2 may be ordered if the payer fails to appear.

3 ~~-(2) A payer who is arrested under a bench warrant issued~~  
4 ~~before July 1, 1983, and who cannot be brought before the court~~  
5 ~~within 24 hours may recognize for his or her appearance by leav-~~  
6 ~~ing with the sheriff or deputy sheriff in charge of the county~~  
7 ~~jail a sum of money determined as follows:~~

8 ~~(a) If the amount of the bond is specified on the bench war-~~  
9 ~~rant, that specified amount.~~

10 ~~(b) If the amount of the bond is not specified on the bench~~  
11 ~~warrant, the payer shall be taken without unnecessary delay~~  
12 ~~before the most convenient district judge or district court mag-~~  
13 ~~istrate to determine the amount of the bond.~~

14 (2) ~~-(3)-~~ The officer receiving ~~the~~ A deposit UNDER SUB-  
15 SECTION (1) shall give to the arrested payer a receipt for the  
16 money ~~so~~ deposited with the officer on a form as follows:

17 Date\_\_\_\_\_

18 Received from \_\_\_\_\_ the sum of \_\_\_\_\_  
19 dollars as cash bail to assure the appearance of  
20 \_\_\_\_\_ before \_\_\_\_\_ circuit court judge  
21 in the county of \_\_\_\_\_, at \_\_\_\_\_ on the \_\_\_\_\_  
22 day of \_\_\_\_\_, 19\_\_, to respond to an order to show  
23 cause why he or she should not be held in contempt for failure or  
24 refusal to obey or perform a support order. If the payer fails  
25 to appear at the time and place indicated above, FAILS to submit  
26 to the jurisdiction of the court, and FAILS to abide by ~~any~~ AN  
27 order of the court, the money deposited shall be transmitted to

1 the friend of the court OR TO THE STATE DISBURSEMENT UNIT for  
 2 payment of the arrearage to the recipient of support and of costs  
 3 to the court. By depositing the money with the officer and  
 4 accepting this receipt, the recipient of this receipt waives ~~any~~  
 5 ~~and all~~ A claim to the money following its transmittal to the  
 6 friend of the court OR TO THE SDU.

7

8 \_\_\_\_\_  
 8 Officer: \_\_\_\_\_ Dept.: \_\_\_\_\_

9 (3) ~~(4)~~ The officer receiving the deposit shall in turn  
 10 deposit the bond received under this section with the clerk of  
 11 the court that issued the bench warrant.

12 (4) ~~(5)~~ On the basis of the hearing on the order to show  
 13 cause, the court by order shall determine how much of the money  
 14 deposited under this section is to be transmitted to the friend  
 15 of the court OR TO THE SDU for payment to 1 or more recipients of  
 16 support and shall return the balance, if any, to the payer.

17 (5) ~~(6)~~ If the payer fails to appear as required, the  
 18 court shall transmit the deposit to the friend of the court OR TO  
 19 THE SDU for payment to 1 or more recipients of support and to the  
 20 county treasurer for distribution as provided in section 31. In  
 21 addition, the court may again issue a bench warrant for the fur-  
 22 ther appearance of the payer.

23 Sec. 37. (1) An order of commitment under section 33 or 35  
 24 shall be entered only if other remedies appear unlikely to cor-  
 25 rect the payer's failure or refusal to pay support.

26 (2) An order of commitment under section 33 shall separately  
 27 state both of the following:

1 (a) The amount of the arrearage under the support order.

2 (b) The amount to be paid by the payer in order to be  
3 released from the order of commitment, which amount may not be  
4 greater than the payer's currently available resources as found  
5 by the court.

6 (3) An order of commitment under section 35 shall separately  
7 state both of the following:

8 (a) The amount of arrearage under the support order.

9 (b) The amount to be paid in order to be released from the  
10 order of commitment.

11 (4) A commitment shall continue until the amount ordered to  
12 be paid under subsection (2)(b) or (3)(b) is paid but shall not  
13 exceed 45 days for the first adjudication of contempt or 90 days  
14 for ~~any~~ A subsequent adjudication of contempt.

15 (5) The court may further direct that ~~any~~ A portion or all  
16 of the earnings of the payer in the facility or institution shall  
17 be paid to and applied for support until the payer ~~has complied~~  
18 COMPLIES with the order of the court, until the payer is released  
19 pursuant to this section from an order of commitment, or until  
20 the further order of the court. If it appears that the ~~state or~~  
21 ~~county department of social services, or a local office of the~~  
22 ~~state~~ department ~~of social services,~~ has contributed towards  
23 the support of the minor child or children during the period of  
24 noncompliance with the order of the court, the court, in the con-  
25 tempt proceedings, may order all or part of ~~any~~ A lump sum pay-  
26 ment to the office of the friend of the court, STATE DISBURSEMENT  
27 UNIT, or county clerk to be paid to ~~that~~ THE department ~~or~~

1 ~~local office~~ not to exceed the amount of the contribution made  
2 by ~~that~~ THE department. ~~or local office.~~ The court may order  
3 the money paid to the person or persons entitled to the money in  
4 weekly or monthly installments by the office of the friend of the  
5 court, SDU, or county clerk to the extent that the court consid-  
6 ers installments necessary for support.

7       Enacting section 1. This amendatory act does not take  
8 effect unless Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_  
9 (request no. 03398'99) of the 90th Legislature is enacted into  
10 law.