

Act No. 106
Public Acts of 2001
Approved by the Governor
July 27, 2001
Filed with the Secretary of State
July 30, 2001
EFFECTIVE DATE: September 30, 2001

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2001**

Introduced by Senators Hammerstrom and Johnson

ENROLLED SENATE BILL No. 317

AN ACT to amend 1982 PA 295, entitled "An act to provide for and to supplement statutes that provide for the enforcement of support, health care, and parenting time orders with respect to divorce, separate maintenance, paternity, child custody, and spouse support; to prescribe certain provisions of those orders; 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 acts and parts of acts," by amending the title and sections 3, 14, 26, 26a, 26b, and 27 (MCL 552.603, 552.614, 552.626, 552.626a, 552.626b, and 552.627), the title as amended by 1996 PA 25, sections 3, 14, 26, 26a, and 26b as amended by 1998 PA 334, and section 27 as amended by 1985 PA 210, and by adding sections 5, 5a, and 5b.

The People of the State of Michigan enact:

TITLE

An act to provide for and to supplement statutes that provide for the provisions and enforcement of support, health care, and parenting time orders with respect to divorce, separate maintenance, paternity, child custody and support, and spousal support; to prescribe and authorize certain provisions of those orders; 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 acts and parts of acts.

Sec. 3. (1) A support order issued by a court of this state shall be enforced as provided in this section.

(2) Except as otherwise provided in this section, a support order that is part of a judgment or is an order in a domestic relations matter as defined in section 2 of the friend of the court act, MCL 552.502, is a judgment on and after the date each support payment is due, with the full force, effect, and attributes of a judgment of this state, and is not, on and after the date it is due, subject to retroactive modification. Retroactive modification of a support payment due under a support order is permissible with respect to a period during which there is pending a petition for modification, but only from the date that notice of the petition was given to the payer or recipient of support.

(3) This section does not apply to an ex parte interim support order or a temporary support order entered under supreme court rule.

(4) The office of the friend of the court shall make available to a payer or payee the forms and instructions described in section 17a of the friend of the court act, MCL 552.517a.

(5) This section does not prohibit a court approved agreement between the parties to retroactively modify a support order. This section does not limit other enforcement remedies available under this or another act.

(6) Every support order that is part of a judgment issued by a court of this state or that is an order in a domestic relations matter as defined in section 2 of the friend of the court act, MCL 552.502, shall include all of the following:

(a) Substantially the following statement: "Except as otherwise provided in section 3 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.603, a support order that is part of a judgment or that is an order in a domestic relations matter as defined in section 2 of the friend of the court act, 1982 PA 294, MCL 552.502, is a judgment on and after the date each support payment is due, with the full force, effect, and attributes of a judgment of this state, and is not, on and after the date it is due, subject to retroactive modification. A surcharge will be added to support payments that are past due as provided in section 3a of the support and parenting time enforcement act, 1982 PA 295, MCL 552.603a."

(b) Notice informing the payer of the imposition of liens by operation of law and that the payer's real and personal property can be encumbered or seized if an arrearage accrues in an amount greater than the amount of periodic support payments payable for 1 year under the payer's support order.

(c) A requirement that, within 21 days after the payer or payee changes his or her residential or mailing address, that person report the new address and his or her telephone number in writing to the friend of the court.

(d) A requirement that both the payer and payee notify the office of the friend of the court if he or she holds an occupational license and if he or she holds a driver's license.

(e) The name, address, and telephone number of the payer's and payee's current sources of income.

(f) A requirement that both the payer and payee inform the office of the friend of the court of his or her social security number and driver's license number. The requirement of this subdivision to provide a social security number with the information does not apply to a payer or payee who demonstrates he or she is exempt under law from obtaining a social security number or to a payer or payee who for religious convictions is exempt under law from disclosure of his or her social security number under these circumstances. The court shall inform the payer and payee of this possible exemption.

(g) Notice that an order for dependent health care coverage takes effect immediately and will be sent to the parent's current and subsequent employers and insurers if appropriate. The notice shall inform the parent that he or she may contest the action by requesting a review or hearing concerning availability of health care coverage at a reasonable cost.

(7) A support order shall not accrue interest.

Sec. 5. (1) If a court orders the payment of child support under this or another act of the state, this section applies to that order.

(2) Except as otherwise provided in this section, the court shall order child support in an amount determined by application of the child support formula developed by the state friend of the court bureau as required in section 19 of the friend of the court act, MCL 552.519. The court may enter an order that deviates from the formula if the court determines from the facts of the case that application of the child support formula would be unjust or inappropriate and sets forth in writing or on the record all of the following:

(a) The child support amount determined by application of the child support formula.

(b) How the child support order deviates from the child support formula.

(c) The value of property or other support awarded instead of the payment of child support, if applicable.

(d) The reasons why application of the child support formula would be unjust or inappropriate in the case.

(3) Subsection (2) does not prohibit the court from entering a child support order that is agreed to by the parties and that deviates from the child support formula, if the requirements of subsection (2) are met.

Sec. 5a. (1) A child support order entered or modified by the court shall provide that each party 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) 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, nonprofit health care corporation, 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.

(2) If a child support order is entered, the court shall require that 1 or both parents obtain or maintain health care coverage that is available to them at a reasonable cost, as a benefit of employment, for the benefit of the minor children of the parties and, subject to section 5b, for the benefit of the parties' children who are not minor children. If a parent is self-employed and maintains health care coverage, the court shall require the parent to obtain or maintain dependent coverage for the benefit of the minor children of the parties and, subject to section 5b, for the benefit of the parties' children who are not minor children, if available at a reasonable cost.

(3) A court may require either parent to file a bond with 1 or more sufficient sureties, in a sum to be fixed by the court, guaranteeing payment of child support.

Sec. 5b. (1) A court that orders child support may order support for a child after the child reaches 18 years of age as provided in this section.

(2) The court may order child support for the time a child is regularly attending high school on a full-time basis with a reasonable expectation of completing sufficient credits to graduate from high school while residing on a full-time basis with the recipient of support or at an institution, but in no case after the child reaches 19 years and 6 months of age. A complaint or motion requesting support as provided in this section may be filed at any time before the child reaches 19 years and 6 months of age.

(3) A provision contained in a judgment or an order entered before October 10, 1990 that provides for the support of a child after the child reaches 18 years of age, without an agreement of the parties as described in subsection (4), is valid and enforceable to the extent the provision provides support for the child for the time the child is regularly attending high school on a full-time basis with a reasonable expectation of completing sufficient credits to graduate from high school while residing on a full-time basis with the recipient of support or at an institution, but in no case after the child reaches 19 years and 6 months of age. This subsection does not require payment of support for a child after the child reaches 18 years of age for any period between November 8, 1989 and October 10, 1990, or reimbursement of support paid between November 8, 1989 and October 10, 1990, in those judicial circuits that did not enforce support for a child after the child reached 18 years of age during the period between November 8, 1989 and October 10, 1990.

(4) A provision contained in a judgment or an order entered under this act before, on, or after the effective date of this section that provides for the support of a child after the child reaches 18 years of age is valid and enforceable if 1 or more of the following apply:

(a) The provision is contained in the judgment or order by agreement of the parties as stated in the judgment or order.

(b) The provision is contained in the judgment or order by agreement of the parties as evidenced by the approval of the substance of the judgment or order by the parties or their attorneys.

(c) The provision is contained in the judgment or order by written agreement signed by the parties.

(d) The provision is contained in the judgment or order by oral agreement of the parties as stated on the record by the parties or their attorneys.

Sec. 14. (1) A source of income that has been served with a notice of income withholding or with an order or notice of an order for dependent health care coverage shall notify the appropriate office of the friend of the court if the parent's income from that source or dependent health care coverage is terminated.

(2) If the source of income is an employer, the source of income shall promptly notify the appropriate office of the friend of the court when the payer's employment is terminated or interrupted for a period of 14 or more consecutive days, and shall provide the payer's last known address and the name and address of the payer's new employer or other source of income, if known. The office of the friend of the court shall immediately serve the payer's new employer or other source of income with a notice of income withholding and, if the payer's source of income is an employer, with a notice of the order for dependent health care coverage.

Sec. 26. (1) Within 2 business days after a new hire report is entered into the state directory of new hires, as created under section 453A of part D of title IV of the social security act, 42 U.S.C. 653a, or a payer's or parent's employer is otherwise identified, the office shall, when appropriate, provide the new employer with a notice of income withholding or a notice of the order for dependent health care coverage, or both, on behalf of a payer who is subject to income withholding or a parent or payer who is required to provide dependent health care coverage.

(2) If an order for dependent health care coverage was entered before the effective date of the amendatory act that added this subsection, the office shall, at the time notice of the order is sent to the employer under subsection (1), provide the payer or parent with instructions on how to request a review or hearing to contest the availability of dependent health care coverage at a reasonable cost.

(3) Notwithstanding subsection (2), if a parent fails to obtain or maintain health care coverage for the parent's child as ordered by the court, the office of the friend of the court shall, as applicable, do either of the following:

(a) Petition the court for an order to show cause why the parent should not be held in contempt for failure to obtain or maintain dependent health care coverage that is available at a reasonable cost.

(b) Send notice of noncompliance to the parent. The notice shall contain all of the following information:

(i) That the office will notify the parent's employer to deduct premiums for, and to notify the insurer or plan administrator to enroll the child in, dependent health care coverage unless the parent does either of the following within 14 days after mailing of the notice:

(A) Submits written proof to the friend of the court of the child's enrollment in a health care coverage plan.

(B) Requests a hearing to determine the availability or reasonable cost of the health care coverage.

(ii) That the order for dependent health care coverage will be applied to current and subsequent employers and periods of employment.

Sec. 26a. (1) If a parent is eligible for health care coverage through an employer doing business in the state, within 20 business days after the date of an order or notice of an order for dependent health care coverage, the employer shall notify its insurer or plan administrator and take other action as required to enroll that parent's child in its health care coverage plan or plans, without regard to any enrollment period restrictions, when all of the following exist:

(a) The parent is required by a court or administrative order to provide health care coverage for the parent's child.

(b) The child is eligible for coverage under the plan. A child cannot be denied enrollment or coverage on the grounds that the child was born out of wedlock, is not claimed as a dependent on the parent's federal income tax return, does not reside with the parent or in the insurer's service area, or is eligible for or receiving medical assistance.

(c) The employee applies for coverage for the child or, if the employee fails to apply, the friend of the court or child's other parent through the friend of the court applies for coverage for the child. Application by the friend of the court shall be in the form of the order for dependent health care coverage or a notice of the order for dependent health care coverage.

(2) If coverage is available through the parent's employer, the employer shall withhold from the employee's income the employee's share, if any, of premiums for dependent health care coverage not to exceed the amount allowed under section 8 and pay that amount to the insurer or plan administrator.

(3) An employer shall not disenroll or eliminate health care coverage of a child eligible for coverage and enrolled under subsection (1) unless the employer is provided with satisfactory written evidence that 1 of the following applies:

(a) The court or administrative order requiring health care coverage is no longer in effect.

(b) The child is or will be enrolled in comparable health care coverage that takes effect not later than the effective date of the disenrollment from the existing plan.

(c) The employer has eliminated dependent health care coverage for all of its employees or members.

Sec. 26b. (1) An order or notice for dependent health care coverage entered under this act shall include the information required in a qualified medical child support order as specified in section 609 of part 6 of subtitle B of title I of the employee retirement income security act of 1974, Public Law 93-406, 29 U.S.C. 1169, if the health care coverage plan of the individual who is responsible for providing a child with health care coverage is subject to that act and shall comply with standards of the national medical support notice as required to meet federal law and regulations.

(2) An order or notice of an order for dependent health care coverage served on an employer shall direct the employer to withhold from the employee's income the employee's share, if any, of premiums for dependent health care coverage and pay that amount to the insurer or plan administrator. The order or notice shall also direct that the amount withheld for support, fees, and health care premiums shall not exceed the amount allowed under section 303(b) of title III of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1673.

(3) An order or notice of an order for dependent health care coverage under this section may be combined with or accompany an order or notice of income withholding under section 9.

Sec. 27. (1) The circuit court may take other enforcement action under applicable laws, including, but not limited to, the following:

(a) 1846 RS 84, MCL 552.1 to 552.45.

(b) 1913 PA 379, MCL 552.151 to 552.155.

(c) The family support act, 1966 PA 138, MCL 552.451 to 552.459.

(d) Section 1701 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1701.

(e) 1968 PA 293, MCL 722.1 to 722.6.

(f) The child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.30.

(g) The paternity act, 1956 PA 205, MCL 722.711 to 722.730.

(2) Even if another act of this state provides that this act applies to support orders issued under the other act, if that other act contains a specific provision regarding the contents or enforcement of the support order that conflicts with this act, the other act controls in regard to that provision.

Enacting section 1. This amendatory act takes effect September 30, 2001.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) Senate Bill No. 318.

- (b) Senate Bill No. 319.
- (c) Senate Bill No. 320.
- (d) Senate Bill No. 321.
- (e) Senate Bill No. 322.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Sam E. Randall

Clerk of the House of Representatives.

Approved _____

Governor.