

SUBSTITUTE FOR
HOUSE BILL NO. 4792
(As amended July 2, 2003)

A bill to amend 1982 PA 295, entitled
"Support and parenting time enforcement act,"
(MCL 552.601 to 552.650) by adding section 5e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5e. (1) A payer who has an arrearage under a support
2 order may file a motion with the circuit court for a payment plan
3 to pay arrearages and to discharge or abate arrearages. The
4 court shall approve the payment plan after notice and a hearing
5 if it finds that the plan is in the best interest of the parties
6 and children and that either of the following applies:

7 (a) The arrearage is owed to an individual payee and [both of the
following:

8 (i) The] payee has consented to entry of the order under
circumstances

9 that satisfy the court that the payee is not acting under fear,
10 coercion, or duress.

[(ii) The payer establishes that the arrearage did not arise from
conduct by the payer engaged in exclusively for the purpose of avoiding a
support obligation.]

11 (b) The arrearage is owed to this state or a political

1 subdivision of this state, and the payer establishes the
2 following:

3 (i) The arrearage did not arise from conduct by the payer
4 engaged in exclusively for the purpose of avoiding a support
5 obligation.

6 (ii) The payer has no present ability, and will not have an
7 ability in the foreseeable future, to pay the arrearage absent a
8 payment plan.

9 (iii) The payment plan will pay a reasonable portion of the
10 arrearage over a reasonable period of time in accordance with the
11 payer's current ability to pay.

12 (iv) The office of child support has received notice of the
13 payer's intent to petition the court and within 56 days executed
14 a waiver consenting to the court considering the merits of the
15 proposed payment plan. By executing the waiver, the office of
16 child support consents to a compromise of arrearages that the
17 court orders after considering the payer's motion. If the office
18 of child support does not consent to a compromise of arrearages,
19 the office must notify the payer within 56 days.

20 (2) If, after notice and hearing, the court finds that the
21 payer has completed the payment plan, the court shall enter an
22 order discharging the remaining arrearage, if any. If the court
23 finds that the payer has substantially completed the payment
24 plan, the court may enter an order granting relief appropriate to
25 the circumstances of the case.

26 (3) A payment plan may provide for discharge of any portion
27 of an arrearage that meets the requirements under subsection (2),

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1 even if other portions of the arrearage do not meet those
2 requirements.

3 (4) A payment plan under subsection (1) shall provide that
4 arrearages subject to the payment plan may be reinstated upon
5 motion and hearing for good cause shown at any time during the
6 pendency of the payment plan. Good cause includes, but is not
7 limited to, the payer receiving property such as lottery
8 proceeds, other winnings, or an inheritance sufficient to pay the
9 amount discharged.

10 (5) A court may require conditions in the payment plan in
11 addition to the payment of support that the court determines are
12 in the best interests of a child, including, but not limited to,
13 any of the following:

14 (a) A payer's a participation in a parenting program.

15 (b) Drug and alcohol counseling.

16 (c) Anger management classes or participation in a batterer
17 intervention program that meets the standards recommended by the
18 governor's task force on batterer intervention standards.

19 (d) Participation in a work program.

20 (e) Counseling.

21 (f) Continuing compliance with a current support order.

22 (6) This section does not modify the right of a party to
23 receive other child support credits to which the payer is
24 entitled nor prevent the court from correcting a support order
25 under other applicable law or court rule.

26 (7) The department shall designate an office to receive
27 service of a motion under this section. [Upon the department's request,
the friend of the court that administers and enforces the support order
shall provide additional case information, not available via the
automated system, to assist the department in considering the waiver and
payment plan request.]