

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4772

A bill to amend 1982 PA 295, entitled "Support and parenting time enforcement act," by amending sections 7, 13, 27, 33, 35, and 42a (MCL 552.607, 552.613, 552.627, 552.633, 552.635, and 552.642a), section 7 as amended by 2002 PA 572, section 13 as amended by 1998 PA 334, section 27 as amended by 2001 PA 106, sections 33 and 35 as amended by 2002 PA 567, and section 42a as added by 2002 PA 568.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. (1) For a friend of the court case, if **income**
2 **withholding is not immediately effective and** the arrearage under
3 a support order reaches the arrearage amount that requires the
4 initiation of 1 or more support enforcement measures as provided
5 in section 11 of the friend of the court act, MCL 552.511, **or, if**
6 **the amount of income withholding is administratively adjusted for**
7 **arrears under section 17e of the friend of the court act, MCL**

1 552.517e, the office of the friend of the court immediately shall
2 send notice of the arrearage to the payer by ordinary mail to his
3 or her last known address. The notice to the payer shall contain
4 the following information:

5 (a) The amount of the arrearage.

6 (b) **One or both of the following:**

7 (i) That the payer's income is subject to income withholding
8 and the amount to be withheld.

9 (ii) **That the payer's income withholding is being**
10 **administratively adjusted and the amount of the adjustment.**

11 (c) That income withholding will be applied to current and
12 subsequent employers and periods of employment and other sources
13 of income.

14 (d) That the order of income withholding is effective and
15 notice to withhold income will be sent to the payer's source of
16 income.

17 (e) That the payer may request a hearing **under subsection (4)**
18 **in writing** within 21 days after the date of the notice to contest
19 the withholding, but only on the grounds that the withholding is
20 not proper because of a mistake of fact concerning the amount of
21 current or overdue support or the identity of the payer, **and if**
22 **the notice includes an administrative adjustment of arrears, that**
23 **the administrative adjustment will cause an unjust or**
24 **inappropriate result.**

25 (f) That if the hearing is held before a referee, the payer
26 has a right to a de novo hearing before a circuit court judge.
27 **The place where a request for hearing under subsection (4) shall**

1 **be filed.**

2 (g) That if the payer believes that the amount of support
3 should be modified due to a change in circumstances, the payer
4 may file a petition with the court for modification of the
5 support order.

6 (2) A copy of the notice provided for in subsection (1) shall
7 be sent by ordinary mail to each recipient of support.

8 (3) A payer to whom notice is sent under subsection (1),
9 within 21 days after the date on which the notice was sent, may
10 request a hearing **by filing a request for hearing as provided in**
11 **the notice and serving a copy on the other party. A hearing**
12 **concerning implementation of income withholding that was not**
13 **previously effective may be requested only** on the grounds that
14 the withholding is not proper because of a mistake of fact
15 concerning the amount of current or overdue support or the
16 identity of the payer.

17 (4) ~~A~~ **If a payer requests a hearing under subsection (3),**
18 **the notice and request shall be filed with the court clerk as a**
19 **motion contesting the proposed action and a** referee or circuit
20 judge shall hold a hearing ~~requested under this section~~ within
21 14 days after the date of the request. If at the hearing the
22 payer establishes that the withholding is not proper because of a
23 mistake of fact concerning the amount of current or overdue
24 support or the identity of the payer, ~~the referee or circuit~~
25 ~~judge may direct that the order of income withholding be~~
26 ~~rescinded until such time as the referee or judge determines~~ or
27 **that periodic implementation of an administrative adjustment of**

1 the amount of the periodic payment of arrears to be withheld will
2 cause an unjust or inappropriate result, the income withholding
3 shall be modified or rescinded according to the guidelines
4 established under section 19 of the friend of the court act, MCL
5 552.519.

6 (5) If the hearing provided under subsection (4) is held
7 before a referee, either party may request a de novo hearing as
8 provided in section 7 of the friend of the court act,
9 MCL 552.507.

10 (6) If a petition for modification of the support order is
11 filed by or on behalf of a payer and is pending at the date
12 scheduled for a hearing under subsection (4), the court may
13 consolidate the hearing under subsection (4) and a hearing on the
14 petition for modification.

15 (7) All proceedings under this section shall be completed
16 within 45 days after the date that notice was sent under
17 subsection (1), unless otherwise permitted by the court upon a
18 showing of good cause.

19 (8) The friend of the court office may review the objection
20 administratively before a hearing is held before a referee or
21 judge. If the friend of the court office reviews the objection
22 administratively, either party may object and a hearing shall be
23 held before a referee or judge.

24 Sec. 13. The court may find a source of income in contempt,
25 require the source of income to pay an amount according to
26 section 11a(2) if the terms of that section have been satisfied,
27 and fine the source of income if the source of income is served

1 with a notice of income withholding and fails to comply with the
2 notice or to pay withheld amounts to the friend of the court
3 after the order becomes binding under section 11. **The IV-D**
4 **agency is responsible for initiating contempt proceedings under**
5 **this section. Contempt proceedings under this section may be**
6 **initiated in any county with jurisdiction over the source of**
7 **income.**

8 Sec. 27. (1) ~~The~~ **Under the Michigan court rules, the**
9 circuit court may take other enforcement action under applicable
10 laws, including, but not limited to, the following:

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

12 (b) 1913 PA 379, MCL 552.151 to ~~552.155~~ **552.156.**

13 (c) The family support act, 1966 PA 138, MCL 552.451 to
14 552.459.

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

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

18 (f) The child custody act of 1970, 1970 PA 91, MCL 722.21 to
19 ~~722.30~~ **722.31.**

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

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

26 (3) **Nothing in this section authorizes the IV-D agency to**
27 **pursue enforcement action under applicable laws except as**

1 **otherwise specifically authorized by statute or court rule.**

2 Sec. 33. (1) The court may find a payer in contempt if the
3 court finds that the payer is in arrears and if the court is
4 satisfied that the payer has the capacity to pay out of currently
5 available resources all or some portion of the amount due under
6 the support order. In the absence of proofs to the contrary
7 introduced by the payer, the court shall presume that the payer
8 has currently available resources equal to 4 weeks of payments
9 under the support order. The court shall not find that the payer
10 has currently available resources of more than 4 weeks of
11 payments without proof of those resources by the office of the
12 friend of the court or the recipient of support. Upon finding a
13 payer in contempt of court under this section, the court may
14 immediately enter an order doing 1 or more of the following:

15 (a) Committing the payer to the county jail.

16 (b) Committing the payer to the county jail with the
17 privilege of leaving the jail during the hours the court
18 determines, and under the supervision the court considers,
19 necessary for the purpose of allowing the payer to go to and
20 return from his or her place of employment.

21 (c) Committing the payer to a penal or correctional facility
22 in this state that is not operated by the state department of
23 corrections.

24 (d) If the payer holds an occupational license, driver's
25 license, or recreational or sporting license, conditioning a
26 suspension of the payer's license, or any combination of the
27 licenses, upon noncompliance with an order for payment of the

1 arrearage in 1 or more scheduled installments of a sum certain.
2 A court shall not order the sanction authorized by this
3 subdivision unless the court finds that the payer has accrued an
4 arrearage of support payments in an amount greater than the
5 amount of periodic support payments payable for 2 months under
6 the payer's support order.

7 (e) Ordering the payer to participate in a work activity.
8 This subdivision does not alter the court's authority to include
9 provisions in an order issued under this section concerning a
10 payer's employment or his or her seeking of employment as that
11 authority exists on August 10, 1998.

12 (f) If available within the court's jurisdiction, order the
13 payer to participate in a community corrections program
14 established as provided in the community corrections act, 1988
15 PA 511, MCL 791.401 to 791.414.

16 (g) **Except as provided by federal law and regulations,**
17 **ordering the parent to pay a fine of not more than \$100.00. A**
18 **fine ordered under this subdivision shall be deposited in the**
19 **friend of the court fund created in section 2530 of the revised**
20 **judicature act of 1961, 1961 PA 236, MCL 600.2530.**

21 (2) If the court enters an order under subsection (1)(d) and
22 the payer fails to comply with the arrearage payment schedule,
23 after notice and opportunity for a hearing, the court shall order
24 suspension of the payer's license or licenses with respect to
25 which the order under subsection (1)(d) was entered and shall
26 proceed under section 30.

27 Sec. 35. (1) The court may find a payer in contempt if the

1 court finds that the payer is in arrears and ~~if the~~ **1 of the**
2 **following:**

3 (a) **The** court is satisfied that by the exercise of diligence
4 the payer could have the capacity to pay all or some portion of
5 the amount due under the support order and that the payer fails
6 or refuses to do so.

7 (b) **The payer has failed to obtain a source of income and has**
8 **failed to participate in a work activity after referral by the**
9 **friend of the court.**

10 (2) Upon finding a payer in contempt of court under this
11 section, the court ~~may immediately enter an order doing~~ **shall,**
12 **absent good cause to the contrary, immediately order the payer to**
13 **participate in a work activity and may also do** 1 or more of the
14 following:

15 (a) ~~Committing~~ **Commit** the payer to the county jail with the
16 privilege of leaving the jail during the hours the court
17 determines, and under the supervision the court considers,
18 necessary for the purpose of allowing the payer to ~~go to and~~
19 ~~return from his or her place of employment or, if the person~~
20 ~~wishes to seek employment, to seek employment~~ **participate in a**
21 **work activity.**

22 (b) If the payer holds an occupational license, driver's
23 license, or recreational or sporting license, ~~conditioning~~
24 **condition** a suspension of the payer's license, or ~~any~~ **a**
25 combination of the licenses, upon noncompliance with an order for
26 payment of the arrearage in 1 or more scheduled installments of a
27 sum certain. A court shall not order the sanction authorized by

1 this subdivision unless the court finds that the payer has
2 accrued an arrearage of support payments in an amount greater
3 than the amount of periodic support payments payable for 2 months
4 under the payer's support order.

5 ~~(c) Ordering the payer to participate in a work activity.~~
6 ~~This subdivision does not alter the court's authority to include~~
7 ~~provisions in an order issued under this section concerning a~~
8 ~~payer's employment or his or her seeking of employment as that~~
9 ~~authority exists on August 10, 1998.~~

10 (c) ~~(d)~~ If available within the court's jurisdiction, order
11 the payer to participate in a community corrections program
12 established as provided in the community corrections act, 1988
13 PA 511, MCL 791.401 to 791.414.

14 (d) **Except as provided by federal law and regulations, order**
15 **the parent to pay a fine of not more than \$100.00. A fine**
16 **ordered under this subdivision shall be deposited in the friend**
17 **of the court fund created in section 2530 of the revised**
18 **judicature act of 1961, 1961 PA 236, MCL 600.2530.**

19 (3) Notwithstanding the length of commitment imposed under
20 this section, the court may release a payer who is unemployed
21 ~~when~~ if committed to a county jail under this section and who
22 finds employment if either of the following applies:

23 (a) The payer is self-employed, completes 2 consecutive weeks
24 at his or her employment, and makes a support payment as required
25 by the court.

26 (b) The payer is employed and completes 2 consecutive weeks
27 at his or her employment and an order of income withholding is

1 effective.

2 (4) If the court enters an order under subsection (2)(b) and
3 the payer fails to comply with the arrearage payment schedule,
4 after notice and an opportunity for a hearing, the court shall
5 order suspension of the payer's license or licenses with respect
6 to which the order under subsection (2)(b) was entered and shall
7 proceed under section 30.

8 Sec. 42a. (1) A joint meeting scheduled by the office of
9 the friend of the court under section 41 **of this act or section**
10 **17 of the friend of the court act, MCL 552.517,** and procedures
11 following a joint meeting are governed by this section.

12 (2) A joint meeting may take place in person or by means of
13 telecommunications equipment.

14 (3) Only an individual who completes the training program
15 described in section 19(3)(b) of the friend of the court act,
16 ~~1982 PA 294,~~ MCL 552.519, shall conduct a joint meeting. At
17 the beginning of a joint meeting, the individual conducting the
18 joint meeting shall do the following:

19 (a) Advise the parties that the purpose of the meeting is for
20 the parties to reach an accommodation.

21 (b) Advise the parties that the individual may recommend an
22 order that the court may issue to resolve the dispute.

23 (4) At the conclusion of a joint meeting, the individual
24 conducting the joint meeting shall do 1 of the following:

25 (a) If the parties reach an accommodation, record the
26 accommodation in writing and provide a copy to each party.

27 (b) Submit an order to the court stating the individual's

1 recommendation for resolving the dispute.

2 (5) If the individual conducting a joint meeting submits a
3 recommended order to the court under subsection (4), the
4 individual shall send a notice to each party who participated in
5 the joint meeting that includes all of the following:

6 (a) A copy of the recommended order.

7 (b) Notice that the court may issue the recommended order
8 resolving the dispute unless a party objects to the order within
9 21 days after the notice is sent.

10 (c) The place where and time when a written objection can be
11 submitted.

12 (d) Notice that a party may waive the 21-day objection period
13 by returning a signed copy of the recommendation.

14 (6) If a party files a written objection within the 21-day
15 limit, the office shall set a court hearing, before a judge or
16 referee, to resolve the dispute. If a party fails to file a
17 written objection within the 21-day limit, the office shall
18 submit the proposed order to the court for entry if the court
19 approves it.

20 (7) If a hearing under subsection (6) is held before a
21 referee, either party is entitled to a de novo hearing before a
22 judge as provided in section 7 of the friend of the court act,
23 MCL 552.507.

24 Enacting section 1. This amendatory act takes effect
25 February 28, 2005.