

SENATE BILL No. 1298

June 17, 2004, Introduced by Senators CROPSEY, BARCIA, HARDIMAN and
PATTERSON and referred to the Committee on Families and Human Services.

A bill to amend 1982 PA 295, entitled
"Support and parenting time enforcement act,"
by amending the title and sections 2, 19, 25h, 27, 41, and 46
(MCL 552.602, 552.619, 552.625h, 552.627, 552.641, and 552.646),
the title and section 27 as amended by 2001 PA 106, sections 2
and 19 as amended by 2002 PA 572, section 25h as added by 2002 PA
565, and section 41 as amended by 2002 PA 568.

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, **parenting time**, child ~~custody~~ and
support, and spousal support; to prescribe and authorize certain
provisions of those orders; to prescribe the powers and duties of

1 the circuit court and friend of the court; to prescribe certain
2 duties of certain employers and other sources of income; to
3 provide for penalties and remedies; and to repeal acts and parts
4 of acts.

5 Sec. 2. As used in this act:

6 (a) "Account" means any of the following:

7 (i) A demand deposit account.

8 (ii) A draft account.

9 (iii) A checking account.

10 (iv) A negotiable order of withdrawal account.

11 (v) A share account.

12 (vi) A savings account.

13 (vii) A time savings account.

14 (viii) A mutual fund account.

15 (ix) A securities brokerage account.

16 (x) A money market account.

17 (xi) A retail investment account.

18 (b) "Account" does not mean any of the following:

19 (i) A trust.

20 (ii) An annuity.

21 (iii) A qualified individual retirement account.

22 (iv) An account covered by the employee retirement income

23 security act of 1974, ~~Public Law 93-406, 88 Stat. 829~~ **29 USC**

24 **1001-1461.**

25 (v) A pension or retirement plan.

26 (vi) An insurance policy.

27 (c) "Address" means the primary address shown on the records

1 of a financial institution used by the financial institution to
2 contact the account holder.

3 (d) "Cash" means money or the equivalent of money, such as a
4 money order, cashier's check, or negotiable check or a payment by
5 debit or credit card, which equivalent is accepted as cash by the
6 agency accepting the payment.

7 ~~(e) "Custody or parenting time order violation" means an~~
8 ~~individual's act or failure to act that interferes with a~~
9 ~~parent's right to interact with his or her child in the time,~~
10 ~~place, and manner established in the order that governs custody~~
11 ~~or parenting time between the parent and the child and to which~~
12 ~~the individual accused of interfering is subject.~~

13 (e) ~~—(f)—~~ "Department" means the family independence agency.

14 (f) ~~—(g)—~~ "Domestic relations matter" means a circuit court
15 proceeding as to ~~child custody or~~ parenting time, or child or
16 spousal support, that arises out of litigation under a statute of
17 this state, including, but not limited to, the following:

18 (i) 1846 RS 84, MCL 552.1 to 552.45.

19 (ii) The family support act, 1966 PA 138, MCL 552.451 to
20 552.459.

21 (iii) Child ~~custody act of 1970~~ **parenting time act**, 1970
22 PA 91, MCL 722.21 to 722.31.

23 (iv) 1968 PA 293, MCL 722.1 to 722.6.

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

25 (vi) Revised uniform reciprocal enforcement of support act,
26 1952 PA 8, MCL 780.151 to 780.183.

27 (vii) Uniform interstate family support act, 1996 PA 310,

1 MCL 552.1101 to 552.1901.

2 (g) ~~—(h)—~~ "Driver's license" means license as that term is
3 defined in section 25 of the Michigan vehicle code, 1949 PA 300,
4 MCL 257.25.

5 (h) ~~—(i)—~~ "Employer" means an individual, sole
6 proprietorship, partnership, association, or private or public
7 corporation, the United States or a federal agency, this state or
8 a political subdivision of this state, another state or a
9 political subdivision of another state, or another legal entity
10 that hires and pays an individual for his or her services.

11 (i) ~~—(j)—~~ "Financial asset" means a deposit, account, money
12 market fund, stock, bond, or similar instrument.

13 (j) ~~—(k)—~~ "Financial institution" means any of the
14 following:

15 (i) A state or national bank.

16 (ii) A state or federally chartered savings and loan
17 association.

18 (iii) A state or federally chartered savings bank.

19 (iv) A state or federally chartered credit union.

20 (v) An insurance company.

21 (vi) An entity that offers any of the following to a resident
22 of this state:

23 (A) A mutual fund account.

24 (B) A securities brokerage account.

25 (C) A money market account.

26 (D) A retail investment account.

27 (vii) An entity regulated by the securities and exchange

1 commission that collects funds from the public.

2 (viii) An entity that is a member of the national association
3 of securities dealers and that collects funds from the public.

4 (ix) Another entity that collects funds from the public.

5 (k) ~~(l)~~ "Friend of the court act" means 1982 PA 294, MCL
6 552.501 to 552.535.

7 (l) ~~(m)~~ "Friend of the court case" means that term as
8 defined in section 2 of the friend of the court act,
9 MCL 552.502. The term "friend of the court case", when used in a
10 provision of this act, is not effective until on and after the
11 effective date of section 5a of the friend of the court act, MCL
12 552.505a.

13 (m) ~~(n)~~ "Income" means any of the following:

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

17 (ii) A payment due or to be due in the future to an
18 individual from a profit-sharing plan, a pension plan, an
19 insurance contract, an annuity, social security, unemployment
20 compensation, supplemental unemployment benefits, or worker's
21 compensation.

22 (iii) An amount of money that is due to an individual as a
23 debt of another individual, partnership, association, or private
24 or public corporation, the United States or a federal agency,
25 this state or a political subdivision of this state, another
26 state or a political subdivision of another state, or another
27 legal entity that is indebted to the individual.

1 **(n)** ~~—(e)—~~ "Insurer" means an insurer, health maintenance
2 organization, health care corporation, or other group, plan, or
3 entity that provides health care coverage in accordance with any
4 of the following acts:

5 (i) Public health code, 1978 PA 368, MCL 333.1101 to
6 333.25211.

7 (ii) The insurance code of 1956, 1956 PA 218, MCL 500.100 to
8 500.8302.

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

11 **(o)** ~~—(p)—~~ "Medical assistance" means medical assistance as
12 established under title XIX of the social security act, ~~chapter~~
13 ~~531, 49 Stat. 620, 42 U.S.C. 42 USC~~ 1396 to 1396r-6 and 1396r-8
14 to 1396v.

15 **(p)** ~~—(q)—~~ "Occupational license" means a certificate,
16 registration, or license issued by a state department, bureau, or
17 agency that has regulatory authority over an individual that
18 allows an individual to legally engage in a regulated occupation
19 or that allows the individual to use a specific title in the
20 practice of an occupation, profession, or vocation.

21 **(q)** ~~—(r)—~~ "Office of child support" means the office of child
22 support established in section 2 of the office of child support
23 act, 1971 PA 174, MCL 400.232.

24 **(r)** ~~—(s)—~~ "Office of the friend of the court" means an agency
25 created in section 3 of the friend of the court act, MCL
26 552.503.

27 **(s)** ~~—(t)—~~ "Order of income withholding" means an order

1 entered by the circuit court providing for the withholding of a
2 payer's income to enforce a support order under this act.

3 (t) "Parenting time order violation" means an individual's
4 act or failure to act that interferes with a parent's right to
5 interact with his or her child in the time, place, and manner
6 established in the order that governs parenting time between the
7 parent and the child and to which the individual accused of
8 interfering is subject.

9 (u) "Payer" means an individual who is ordered by the circuit
10 court to pay support.

11 (v) "Person" means an individual, partnership, corporation,
12 association, governmental entity, or other legal entity.

13 (w) "Plan administrator" means that term as used in relation
14 to a group health plan under section 609 of part 6 of subtitle B
15 of title I of the employee retirement income security act of
16 1974, ~~Public Law 93-406, 29 U.S.C.~~ **29 USC** 1169, if the health
17 care coverage plan of the individual who is responsible for
18 providing a child with health care coverage is subject to that
19 act.

20 (x) "Political subdivision" means a county, city, village,
21 township, educational institution, school district, or special
22 district or authority of the state or of a local unit of
23 government.

24 (y) "Recipient of support" means the following:

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

26 (ii) The ~~custodial~~ parent or guardian, if the support order
27 orders support **paid to the parent or guardian** for a minor child

1 or a child who is 18 years of age or older.

2 (iii) The department, if support has been assigned to that
3 department.

4 (z) "Recreational or sporting license" means a hunting,
5 fishing, or fur harvester's license issued under the natural
6 resources and environmental protection act, 1994 PA 451, MCL
7 324.101 to 324.90106, but does not include a commercial fishing
8 license or permit issued under part 473 of the natural resources
9 and environmental protection act, 1994 PA 451, MCL 324.47301 to
10 324.47362.

11 (aa) "Referee" means a person who is designated as a referee
12 under the friend of the court act.

13 (bb) "Source of income" means an employer or successor
14 employer or another individual or entity that owes or will owe
15 income to the payer.

16 (cc) "State disbursement unit" or "SDU" means the entity
17 established in section 6 of the office of child support act, 1971
18 PA 174, MCL 400.236.

19 (dd) "State friend of the court bureau" means that bureau as
20 created in the state court administrative office under section 19
21 of the friend of the court act, MCL 552.519.

22 (ee) "Support" means all of the following:

23 (i) The payment of money for a child or a spouse ordered by
24 the circuit court, whether the order is embodied in an interim,
25 temporary, permanent, or modified order or judgment. Support may
26 include payment of the expenses of medical, dental, and other
27 health care, child care expenses, and educational expenses.

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

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

8 (ff) "Support order" means an order entered by the circuit
9 court for the payment of support, whether or not a sum certain.

10 (gg) "Title IV-D" means part D of title IV of the social
11 security act, ~~chapter 531, 49 Stat. 620, 42 U.S.C.~~ **42 USC** 651
12 to 655, 656 to 657, 658a to 660, and 663 to 669b.

13 (hh) "Title IV-D agency" means the agency in this state
14 performing the functions under title IV-D and includes a person
15 performing those functions under contract including an office of
16 the friend of the court or a prosecuting attorney.

17 (ii) "Work activity" means any of the following:

18 (i) Unsubsidized employment.

19 (ii) Subsidized private sector employment.

20 (iii) Subsidized public sector employment.

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

24 (v) On-the-job training.

25 (vi) Referral to and participation in the work first program
26 prescribed in the social welfare act, 1939 PA 280, MCL 400.1 to
27 400.119b, or other job search and job readiness assistance.

(vii) Community service programs.

(viii) Vocational educational training, not to exceed 12 months with respect to an individual.

(ix) Job skills training directly related to employment.

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

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

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

Sec. 19. (1) If the court awards to the payer sole ~~custody~~ **parenting time** of a child for whom the payer has been previously ordered to pay support and a previously accumulated arrearage under the support order for that child does not exist, the court shall modify any existing support order to exclude support ordered to be paid by that payer for that particular child. If an existing support order does not provide for support to any other child of whom the payer does not have ~~custody~~ **sole parenting time**, for support to a former spouse, or for payments of confinement or pregnancy expenses, the court shall terminate the order of income withholding as soon as any previously accumulated arrearage has been paid.

(2) The office of the friend of the court shall suspend or terminate an order of income withholding under any of the

1 following circumstances:

2 (a) The location of the child and ~~custodial~~ parent **who is a**
3 **recipient of support** cannot be determined for a period of 60 days
4 or more, and the friend of the court case is being closed.

5 (b) The court determines that there is no further support
6 obligation.

7 (c) When otherwise determined by the court, upon a showing of
8 good cause, and if the court determines that such suspension or
9 termination is not contrary to the best interests of the child.
10 In making a determination under this subdivision, the court may
11 consider the previous payment record of the payer, evidence of
12 the payer's intent to make regular and timely support payments,
13 and any other factors considered relevant by the court. However,
14 the payment of arrearages under the support order shall not be
15 the sole reason for termination of an order of income
16 withholding.

17 (d) The parties enter into a written agreement that is
18 reviewed and entered in the record by the court that provides for
19 all of the following:

20 (i) The order of income withholding shall be suspended.

21 (ii) An alternative payment arrangement.

22 (iii) For a friend of the court case, the payer shall keep
23 the office of the friend of the court informed of both of the
24 following:

25 (A) The name and address of his or her current source of
26 income.

27 (B) Any health care coverage that is available to him or her

1 as a benefit of employment or that is maintained by him or her;
2 the name of the insurance company, health care organization, or
3 health maintenance organization; the policy, certificate, or
4 contract number; and names and birth dates of the persons for
5 whose benefit he or she maintains health care coverage under the
6 policy, certificate, or contract.

7 (3) The parties shall not enter into a written agreement
8 under subsection (2)(d) if either of the following circumstances
9 exists:

10 (a) There is a support arrearage.

11 (b) An order of income withholding was previously suspended
12 or terminated and subsequently implemented due to the payer's
13 failure to pay support.

14 (4) If a written agreement is entered into under
15 subsection (2)(d), the order of income withholding shall take
16 effect when an arrearage in support payments as agreed to under
17 the written agreement reaches the arrearage amount that would
18 require the initiation of 1 or more support enforcement measures
19 if the case were a friend of the court case, as provided in
20 section 11 of the friend of the court act, MCL 552.511.

21 (5) The court may suspend or terminate an order of income
22 withholding if the ~~custodial~~ parent **who is the recipient of**
23 **support** moves out of the state without court authorization.

24 (6) The office of the friend of the court shall promptly
25 refund money that has been improperly withheld.

26 Sec. 25h. (1) If an action is filed in circuit court within
27 the time limit prescribed in section 25f, the circuit court shall

1 review the matter de novo. The action is governed by this
2 section and the Michigan court rules. The circuit court review
3 is not limited to mistakes of fact.

4 (2) All of the following apply in an action governed by this
5 section:

6 (a) The circuit court shall only address the issues of the
7 propriety of the levy and whether the levy amount is correct.

8 (b) The circuit court shall not admit evidence or consider an
9 issue that is related to ~~custody~~, parenting time ~~—~~ or the
10 amount of support under a support order unless that evidence is
11 related to the levy against a payer's financial assets.

12 (c) The circuit court shall not modify a support order. A
13 court finding regarding a monthly or past due support amount does
14 not modify the underlying support order.

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

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

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

20 (c) The family support act, 1966 PA 138, MCL 552.451 to
21 552.459.

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

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

25 (f) The child ~~custody act of 1970~~ **parenting time act**, 1970
26 PA 91, MCL 722.21 to ~~722.30~~ **722.31**.

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

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

6 Sec. 41. (1) For a friend of the court case, a friend of
7 the court shall do 1 or more of the following in response to an
8 alleged ~~custody or~~ parenting time order violation stated in a
9 complaint submitted under section 11b of the friend of the court
10 act, MCL 552.511b:

11 (a) Apply a makeup parenting time policy established under
12 section 42.

13 (b) Commence civil contempt proceedings under section 44.

14 (c) File a motion with the court under section 17d of the
15 friend of the court act, MCL 552.517d, for a modification of
16 existing parenting time provisions to ensure parenting time,
17 unless contrary to the best interests of the child.

18 (d) Schedule mediation subject to section 13 of the friend of
19 the court act, MCL 552.513.

20 (e) Schedule a joint meeting subject to section 42a.

21 (2) Notwithstanding the requirement of subsection (1), the
22 office of the friend of the court may decline to respond to an
23 alleged ~~custody or~~ parenting time order violation under any of
24 the following circumstances:

25 (a) The party submitting the complaint has previously
26 submitted 2 or more complaints alleging ~~custody or~~ parenting
27 time order violations that were found to be unwarranted, costs

1 were assessed against the party because a complaint was found to
 2 be unwarranted, and the party has not paid those costs.

3 (b) The alleged ~~custody or~~ parenting time order violation
 4 occurred more than 56 days before the complaint is submitted.

5 (c) The ~~custody or~~ parenting time order does not include an
 6 enforceable provision that is relevant to the ~~custody or~~
 7 parenting time order violation alleged in the complaint.

8 (3) This section shall be implemented in compliance with the
 9 guidelines developed as required in section 19 of the friend of
 10 the court act, MCL 552.519.

11 Sec. 46. (1) If a ~~custodial~~ parent **with parenting time**
 12 is committed to jail under section 44(2)(e) and violates the
 13 conditions of the court, the court shall commit the person to the
 14 county jail without the privilege provided under section
 15 ~~44(2)(e)~~ **44(2)(f)** for the balance of the period of commitment
 16 imposed by the court.

17 (2) If a ~~custodial~~ parent **with parenting time** is committed
 18 to jail under section 44(2)(e) and fails to return to the place
 19 of confinement within the time prescribed, ~~the custodial~~ **that**
 20 parent ~~shall be~~ **is** considered to have escaped from custody and
 21 ~~shall be~~ **is** guilty of a misdemeanor, punishable by imprisonment
 22 for not more than 1 year.

23 Enacting section 1. This amendatory act takes effect
 24 January 1, 2005.

25 Enacting section 2. This amendatory act does not take
 26 effect unless House Bill No. 5949
 27 of the 92nd Legislature is enacted into

1 law.