

# SENATE BILL No. 1431

June 26, 2008, Introduced by Senator HARDIMAN and referred to the Committee on Families and Human Services.

A bill to amend 1966 PA 138, entitled "The family support act," by amending sections 2, 4, and 8a (MCL 552.452, 552.454, and 552.458a), sections 2 and 8a as amended by 2002 PA 574 and section 4 as amended by 1999 PA 158; and to repeal acts and parts of acts.

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

1       Sec. 2. (1) Upon the hearing of the complaint, in the manner  
2 of a motion, the court may enter an order as it determines proper  
3 for the support of the petitioner and the minor child or children  
4 of the parties as prescribed in section 5 of the support and  
5 parenting time enforcement act, 1982 PA 295, MCL 552.605. The order  
6 shall provide that payment shall be made to the friend of the court  
7 or the state disbursement unit. If the parent complained of opposes

1 the entry of the order upon the ground that he or she is without  
2 sufficient financial ability to provide necessary shelter, food,  
3 care, clothing, and other support for his or her spouse and child  
4 or children, the burden of proving this lack of ability is on the  
5 parent against whom the complaint is made. The order shall state in  
6 separate paragraphs the amount of support for the petitioner until  
7 the further order of the court, and the amount of support for each  
8 child until each child reaches 18 years of age or until the further  
9 order of the court. Subject to section 5b of the support and  
10 parenting time enforcement act, 1982 PA 295, MCL 552.605b, the  
11 court may also order support for the child after the child reaches  
12 18 years of age, or until the further order of the court. **SUPPORT**  
13 **ORDERED MAY INCLUDE EXPENSES OF MEDICAL, DENTAL, AND OTHER HEALTH**  
14 **CARE, CHILD CARE, AND EDUCATION, NECESSARY EXPENSES INCURRED BY OR**  
15 **FOR THE MOTHER IN CONNECTION WITH HER CONFINEMENT AND PREGNANCY,**  
16 **AND THE EXPENSE OF GENETIC TESTING. A CHILD SUPPORT OBLIGATION IS**  
17 **ONLY RETROACTIVE TO THE DATE THAT THE COMPLAINT FOR SUPPORT WAS**  
18 **FILED UNLESS ANY OF THE FOLLOWING CIRCUMSTANCES EXIST:**

19 (A) THE DEFENDANT WAS AVOIDING SERVICE OF PROCESS.

20 (B) THE DEFENDANT THREATENED OR COERCED THROUGH DOMESTIC  
21 VIOLENCE OR OTHER MEANS THE COMPLAINANT NOT TO FILE A PROCEEDING  
22 UNDER THIS ACT.

23 (C) THE DEFENDANT OTHERWISE DELAYED THE IMPOSITION OF A  
24 SUPPORT OBLIGATION.

25 (2) IF THE CONFINEMENT AND PREGNANCY EXPENSES OF A MOTHER  
26 UNDER THIS SECTION HAVE BEEN PAID UNDER THE MEDICAID PROGRAM FOR  
27 MEDICAL ASSISTANCE ESTABLISHED UNDER TITLE XIX OF THE SOCIAL

1 SECURITY ACT, 42 USC 1396 TO 1396V, THE COURT SHALL NOT APPORTION  
2 CONFINEMENT AND PREGNANCY EXPENSES TO THE MOTHER. AFTER THE  
3 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SENTENCE,  
4 BASED ON THE FATHER'S ABILITY TO PAY AND ANY OTHER RELEVANT FACTOR,  
5 THE COURT MAY APPORTION NOT MORE THAN 100% OF THE REASONABLE AND  
6 NECESSARY CONFINEMENT AND PREGNANCY COSTS TO THE FATHER. IF THE  
7 CONFINEMENT AND PREGNANCY EXPENSES OF THE MOTHER UNDER THIS SECTION  
8 HAVE NOT BEEN PAID UNDER THE MEDICAID PROGRAM, THE COURT SHALL  
9 REQUIRE AN ITEMIZED BILL FOR THE EXPENSES UPON REQUEST FROM THE  
10 FATHER BEFORE AN APPORTIONMENT IS MADE.

11 (3) AN ORDER ENTERED UNDER THIS SECTION SHALL PROVIDE THAT IF  
12 THE FATHER MARRIES THE MOTHER AFTER THE BIRTH OF THE CHILD AND  
13 PROVIDES DOCUMENTATION OF THE MARRIAGE TO THE FRIEND OF THE COURT,  
14 THE FATHER'S OBLIGATION FOR PAYMENT OF ANY REMAINING UNPAID  
15 CONFINEMENT AND PREGNANCY EXPENSES IS ABATED SUBJECT TO  
16 REINSTATEMENT AFTER NOTICE AND HEARING FOR GOOD CAUSE SHOWN,  
17 INCLUDING DISSOLUTION OF THE MARRIAGE. THE REMAINING UNPAID AMOUNT  
18 OF THE CONFINEMENT AND PREGNANCY EXPENSES OWED BY THE FATHER IS  
19 ABATED AS OF THE DATE THAT DOCUMENTATION OF THE MARRIAGE IS  
20 PROVIDED TO THE FRIEND OF THE COURT.

21 (4) IF THE FATHER AND MOTHER ARE MARRIED AT THE TIME OF THE  
22 CHILD'S BIRTH OR CONCEPTION, THE COURT MAY ORDER IN THE ORDER  
23 ENTERED UNDER THIS SECTION THAT UNPAID CONFINEMENT AND PREGNANCY  
24 EXPENSES WILL ABATE IF THE FATHER AND MOTHER RECONCILE ON TERMS AND  
25 CONDITIONS THAT THE COURT CONSIDERS TO BE APPROPRIATE.

26 (5) ~~(2)~~—A support order entered under this section is  
27 enforceable as provided in the support and parenting time

1 enforcement act, 1982 PA 295, MCL 552.601 to 552.650. If this act  
2 contains a specific provision regarding the contents or enforcement  
3 of a child support order that conflicts with a provision in the  
4 support and parenting time enforcement act, 1982 PA 295, MCL  
5 552.601 to 552.650, this act controls in regard to that provision.

6 (6) ~~(3)~~—If there is no dispute regarding a child's custody,  
7 the court shall include in an order for support issued under this  
8 act specific provisions governing custody of and parenting time for  
9 the child in accordance with the child custody act of 1970, 1970 PA  
10 91, MCL 722.21 to 722.31. If there is a dispute regarding custody  
11 of and parenting time for the child, the court shall include in an  
12 order for support issued under this act specific temporary  
13 provisions governing custody of and parenting time for the child.  
14 Pending a hearing on or other resolution of the dispute, the court  
15 may refer the matter to the office of the friend of the court for a  
16 written report and recommendation as provided in section 5 of the  
17 friend of the court act, 1982 PA 294, MCL 552.505. In a dispute  
18 regarding custody of and parenting time for a child, the  
19 prosecuting attorney is not required to represent either party  
20 regarding the dispute.

21 Sec. 4. (1) If the county ~~family independence agency~~  
22 **DEPARTMENT OF HUMAN SERVICES** where the custodial parent or guardian  
23 of the minor child or children or the child or children who have  
24 reached 18 years of age resides determines the custodial parent,  
25 the minor child or children, the child or children who have reached  
26 18 years of age, or any of them to be eligible for public or  
27 medical assistance, or if a complaint is being filed under section

1 lb, the prosecuting attorney shall act as the attorney for the  
2 petitioner. **BY WRITTEN AGREEMENT OF THE CHIEF JUDGE OF THE CIRCUIT**  
3 **COURT, THE PROSECUTING ATTORNEY FOR THE COUNTY, AND THE COUNTY**  
4 **BOARD OF COMMISSIONERS, THE FRIEND OF THE COURT MAY BE DESIGNATED**  
5 **TO PERFORM THE DUTIES DESIGNATED UNDER THIS ACT TO BE PERFORMED BY**  
6 **THE PROSECUTING ATTORNEY. THE AGREEMENT SHALL PROVIDE THAT IF THE**  
7 **CASE BECOMES CONTESTED, THE PROSECUTING ATTORNEY OR A DESIGNATED**  
8 **ASSISTANT PROSECUTING ATTORNEY SHALL PERFORM DUTIES INVOLVING**  
9 **APPEARANCES IN COURT.**

10 (2) The prosecuting attorney **AND THE FRIEND OF THE COURT** shall  
11 utilize the child support formula developed under section 19 of the  
12 friend of the court act, 1982 PA 294, MCL 552.519, as a guideline  
13 in petitioning for child support. Upon certification by the ~~family~~  
14 ~~independence agency~~ **DEPARTMENT OF HUMAN SERVICES** that the custodial  
15 parent and minor child or children or child or children who have  
16 reached 18 years of age are receiving public assistance, a payment  
17 received by the friend of the court or the state disbursement unit  
18 for the support of the custodial parent and minor child or children  
19 or child or children who have reached 18 years of age shall be  
20 transmitted to the ~~family independence agency~~ **DEPARTMENT OF HUMAN**  
21 **SERVICES.**

22 Sec. 8a. ~~The department, the SDU, and each office of the~~  
23 ~~friend of the court shall cooperate in the transition to the~~  
24 ~~centralized receipt~~ **THE SDU IS RESPONSIBLE FOR THE COLLECTION** and  
25 disbursement of support. ~~and fees.~~ An office of the friend of the  
26 court shall **MAY** continue to receive ~~and disburse~~ support and fees.  
27 ~~through the transition, based on the schedule developed as required~~

1 ~~by section 7 of the office of child support act, 1971 PA 174, MCL~~  
2 ~~400.237, and modifications to that schedule as the department~~  
3 ~~considers necessary.~~

4 Enacting section 1. Section 7 of the family support act, 1966  
5 PA 138, MCL 552.457, is repealed.

6 Enacting section 2. This amendatory act does not take effect  
7 unless Senate Bill No. 1427

8 of the 94th Legislature is enacted into law.