

Act No. 236  
Public Acts of 2009  
Approved by the Governor  
January 8, 2010  
Filed with the Secretary of State  
January 8, 2010  
EFFECTIVE DATE: January 8, 2010

**STATE OF MICHIGAN  
95TH LEGISLATURE  
REGULAR SESSION OF 2009**

Introduced by Senators Hardiman and Jansen

# **ENROLLED SENATE BILL No. 107**

AN ACT to amend 1966 PA 138, entitled "An act to confer jurisdiction upon the circuit courts to order and enforce the payment of money for the support, in certain cases, of parents having physical custody of minor children or children who have reached the age of majority and of minor children or children who have reached the age of majority by noncustodial parents and to enter orders governing custody and parenting time for those children; to provide for the termination of the effectiveness of the support orders; and to provide for the payment of fees and assessment of costs in those cases," by amending sections 1, 2, and 8a (MCL 552.451, 552.452, and 552.458a), section 1 as amended by 2002 PA 8 and sections 2 and 8a as amended by 2002 PA 574; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

Sec. 1. A married parent who has a minor child or children living with him or her and who is living separate and away from his or her spouse who is the noncustodial parent of the child or children, and who is refused financial assistance by the noncustodial parent to provide necessary shelter, food, care, and clothing for the child or children, if the spouse is of sufficient financial ability to provide that assistance, may complain to the circuit court for the county where either parent resides for an order for support for himself or herself and the minor child or children. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, the parent may also complain to the circuit court for support for a child or children after they reach 18 years of age. The proceedings shall be commenced by the filing of a complaint verified by the petitioner and by issuance of a summons that shall be served upon the noncustodial parent of the children and spouse of the petitioner in the manner provided by court rules for the service of process in civil actions. A complaint shall not be filed and a summons shall not be issued if divorce or separate maintenance proceedings are then pending between the petitioner and his or her spouse.

Sec. 2. (1) Upon the hearing of the complaint, in the manner of a motion, the court may enter an order as it determines proper for the support of the petitioner and the minor child or children of the parties as prescribed in section 5 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605. The order shall provide that payment shall be made to the friend of the court or the state disbursement unit. If the parent complained of opposes the entry of the order upon the ground that he or she is without sufficient financial ability to provide necessary shelter, food, care, clothing, and other support for his or her spouse and child or children, the burden of proving this lack of ability is on the parent against whom the complaint is made. The order shall state in separate paragraphs the amount of support for the petitioner until the further order of the court, and the amount of support for each child until each child reaches 18 years of age or until the further order of the court. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, the court may also order support for the child after the child reaches 18 years of age, or until the further order of the court. Support ordered may include expenses of medical, dental, and other health care, child care, and education, necessary medical expenses incurred in connection with the mother's pregnancy or the birth of the child, and the expense of genetic testing. A child support obligation is only retroactive to the date that the complaint for support was filed unless any of the following circumstances exist:

(a) The defendant was avoiding service of process.

(b) The defendant threatened or coerced through domestic violence or other means the complainant not to file a proceeding under this act.

(c) The defendant otherwise delayed the imposition of a support obligation.

(2) The court shall order medical expenses incurred in connection with the mother's pregnancy or the birth of the child under this section in the same manner as medical expenses are ordered under section 2 of the paternity act, 1956 PA 205, MCL 722.712, and shall include in its order provisions as required by that section for orders entered under that act.

(3) A support order entered under this section is enforceable as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650. If this act contains a specific provision regarding the contents or enforcement of a child support order that conflicts with a provision in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act controls in regard to that provision.

(4) If there is no dispute regarding a child's custody, the court shall include in an order for support issued under this act specific provisions governing custody of and parenting time for the child in accordance with the child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31. If there is a dispute regarding custody of and parenting time for the child, the court shall include in an order for support issued under this act specific temporary provisions governing custody of and parenting time for the child. Pending a hearing on or other resolution of the dispute, the court may refer the matter to the office of the friend of the court for a written report and recommendation as provided in section 5 of the friend of the court act, 1982 PA 294, MCL 552.505. In a dispute regarding custody of and parenting time for a child, the prosecuting attorney is not required to represent either party regarding the dispute.

Sec. 8a. The SDU is responsible for the centralized receipt and disbursement of support. An office of the friend of the court may continue to receive support and fees.

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

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

- (a) Senate Bill No. 103 or House Bill No. 5504.
- (b) Senate Bill No. 104 or House Bill No. 5502.
- (c) Senate Bill No. 106.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Richard J. Brown*

Clerk of the House of Representatives

Approved .....

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Governor

**Compiler's note:** The bills referred to in enacting section 2 were enacted into law as follows:

House Bill No. 5504 was filed with the Secretary of State January 8, 2010, and became 2009 PA 239, Imd. Eff. Jan. 8, 2010.

House Bill No. 5502 was filed with the Secretary of State January 8, 2010, and became 2009 PA 238, Imd. Eff. Jan. 8, 2010.

Senate Bill No. 106 was filed with the Secretary of State January 8, 2010, and became 2009 PA 235, Imd. Eff. Jan. 8, 2010.