

Act No. 25
Public Acts of 1996
Approved by the Governor
February 14, 1996
Filed with the Secretary of State
February 16, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

**Introduced by Senators Berryman, Geake, Dingell, Hoffman, Gougeon, Shugars, Stille, McManus, Byrum
and Emmons**

ENROLLED SENATE BILL No. 624

AN ACT to amend the title and sections 1, 3, 41, 42, and 44 of Act No. 295 of the Public Acts of 1982, entitled as amended "An act to supplement statutes which provide for the enforcement of support and visitation orders with respect to divorce, separate maintenance, paternity, child custody, and spouse support; to prescribe the powers and duties of the circuit court and friend of the court; to prescribe certain duties of certain employers and other sources of income; to provide for penalties and remedies; and to repeal certain acts and parts of acts," section 3 as amended by Act No. 141 of the Public Acts of 1995 and sections 41, 42, and 44 as amended by Act No. 210 of the Public Acts of 1985, being sections 552.601, 552.603, 552.641, 552.642, and 552.644 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. The title and sections 1, 3, 41, 42, and 44 of Act No. 295 of the Public Acts of 1982, section 3 as amended by Act No. 141 of the Public Acts of 1995 and sections 41, 42, and 44 as amended by Act No. 210 of the Public Acts of 1985, being sections 552.601, 552.603, 552.641, 552.642, and 552.644 of the Michigan Compiled Laws, are amended to read as follows:

TITLE

An act to provide for and to supplement statutes that provide for the enforcement of support, health care, and parenting time orders with respect to divorce, separate maintenance, paternity, child custody, and spouse support; to prescribe certain provisions of those orders; to prescribe the powers and duties of the circuit court and friend of the court; to prescribe certain duties of certain employers and other sources of income; to provide for penalties and remedies; and to repeal acts and parts of acts.

Sec. 1. This act shall be known and may be cited as the "support and parenting time enforcement act".

Sec. 3. (1) A support order issued by a court of this state shall be enforced as provided in this section.

(2) Except as otherwise provided in this section, a support order that is part of a judgment or is an order in a domestic relations matter as defined in section 31 of the friend of the court act, being section 552.531 of the Michigan Compiled Laws, is a judgment on and after the date each support payment is due, with the full force, effect, and attributes of a judgment of this state, and is not, on and after the date it is due, subject to retroactive modification. Retroactive modification of a support payment due under a support order is permissible with respect to any period during which there is pending a petition for modification, but only from the date that notice of the petition was given to the payer or recipient of support.

(3) This section does not apply to an ex parte interim support order or a temporary support order entered pursuant to supreme court rule.

(4) The office of the friend of the court shall make available to a payer or payee the forms and instructions described in section 17a of the friend of the court act, being section 552.517a of the Michigan Compiled Laws.

(5) This section does not prohibit a court approved agreement between the parties to retroactively modify a support order. This section does not limit other enforcement remedies available under this act or any other act.

(6) Every support order that is part of a judgment issued by a court of this state or that is an order in a domestic relations matter as defined in section 31 of the friend of the court act shall include both of the following:

(a) Substantially the following statement: “Except as otherwise provided in section 3 of the support and parenting time enforcement act, Mich. Comp. Laws §552.603 (1979), a support order that is part of a judgment or that is an order in a domestic relations matter as defined in section 31 of the friend of the court act, Mich. Comp. Laws §552.531 (1979), is a judgment on and after the date each support payment is due, with the full force, effect, and attributes of a judgment of this state, and is not, on and after the date it is due, subject to retroactive modification. A surcharge will be added to support payments that are past due as provided in section 3a of the support and parenting time enforcement act, Mich. Comp. Laws §552.603a (1979).”.

(b) A requirement that, within 21 days after the payer or payee changes his or her address, that person report the new address in writing to the friend of the court.

(7) A support order shall not accrue interest.

Sec. 41. (1) Except as provided in subsection (2), the friend of the court shall do 1 or more of the following in a dispute concerning parenting time of a minor child:

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

(b) Commence civil contempt proceedings under section 44.

(c) Petition the court for a modification of existing parenting time provisions to ensure parenting time, unless contrary to the best interests of the child. A written report and recommendation shall accompany the petition.

(2) The friend of the court shall not invoke 1 or more of the options under subsection (1) if the parties resolve their dispute through an informal joint meeting or through domestic relations mediation as provided under section 11 or 13 of the friend of the court act, Act No. 294 of the Public Acts of 1982, being sections 552.511 and 552.513 of the Michigan Compiled Laws.

Sec. 42. (1) Not later than 180 days after the enactment date of this amendatory act, each circuit shall formulate a makeup parenting time policy under which a noncustodial parent who has been wrongfully denied parenting time is able to make up the parenting time at a later date. The policy does not apply until it is approved by the chief circuit judge or only circuit judge of the circuit.

(2) Before a makeup parenting time policy is applied in a particular case, the office of the friend of the court shall send to both parties a notice, by ordinary mail to the person’s last known address, that the policy will be applied in their case.

(3) A makeup parenting time policy formulated and approved under this section shall include all of the following:

(a) Makeup parenting time shall be the same type and duration of parenting time as the parenting time that was denied, including but not limited to weekend parenting time for weekend parenting time, holiday parenting time for holiday parenting time, weekday parenting time for weekday parenting time, and summer parenting time for summer parenting time.

(b) Makeup parenting time shall be taken within 1 year after the wrongfully denied parenting time was to have occurred.

(c) The time of the makeup parenting time shall be chosen by the noncustodial parent.

(4) Beginning upon approval of a makeup parenting time policy formulated pursuant to subsection (1), the office of the friend of the court shall keep an accurate record of alleged parenting time arrears and the noncustodial parent shall give to the office written notice of an alleged, wrongfully denied parenting time within 7 days of alleged denial.

(5) Beginning upon approval of a makeup parenting time policy formulated under subsection (1), if a wrongfully denied parenting time is alleged and the friend of the court determines that action should be taken under section 41(1)(a), the following shall apply:

(a) The office of the friend of the court shall give to the custodial parent within 5 days after receipt of the notice of denied parenting time under subsection (4) a notice, which shall contain the following statement in boldface type of not less than 12 points:

“FAILURE TO RESPOND IN 7 DAYS TO THE OFFICE OF THE FRIEND OF THE COURT SHALL BE CONSIDERED AS AN AGREEMENT THAT PARENTING TIME WAS WRONGFULLY DENIED AND THAT OFFICE WILL ADJUST THE ACCOUNT OF PARENTING TIME ARREARS ACCORDINGLY.”

(b) If the custodial parent makes a timely reply contesting the alleged wrongful denial of parenting time, a hearing shall be held by a referee or a circuit judge after notice is given to both parties.

(c) The referee or judge shall determine whether parenting time was wrongfully denied.

(d) If the hearing provided under subdivision (b) is held before a referee, either party is entitled to a de novo hearing before a circuit court judge as provided in section 7(5) of Act No. 294 of the Public Acts of 1982, being section 552.507 of the Michigan Compiled Laws.

(e) After a final determination that parenting time was wrongfully denied, the office of the friend of the court shall adjust the parenting time arrears account accordingly.

(f) The noncustodial parent shall give to the office of the friend of the court and custodial parent a written notice of makeup parenting time at least 1 week before a makeup weekday or weekend parenting time or at least 30 days before a makeup holiday or makeup summer parenting time.

Sec. 44. (1) If the office of the friend of the court determines that action should be taken under section 41(1)(b), the office of the friend of the court shall commence a civil contempt proceeding to resolve a dispute concerning parenting time of a minor child by filing with the circuit court a petition for an order to show cause why either parent who has violated a parenting time order should not be held in contempt.

(2) If the court finds that either parent has violated a parenting time order, the court shall find that parent in contempt and may do 1 or more of the following:

(a) Require additional terms and conditions consistent with the court's parenting time order.

(b) After notice to both parties and a hearing, if requested by a party, on any proposed modification of parenting time, modify the parenting time order to meet the best interests of the child.

(c) Order that makeup parenting time be provided for the noncustodial parent to take the place of wrongfully denied parenting time.

(d) Order the parent to pay a fine of not more than \$100.00.

(e) Commit the parent to the county jail.

(f) Commit the parent to the county jail with the privilege of leaving the jail, during such hours as the court determines and under such supervision as the court considers necessary, for the purpose of allowing the parent to go to and return from his or her place of employment.

(3) A commitment under subsection (2)(e) or (f) shall not exceed 45 days for the first finding of contempt or 90 days for each subsequent finding of contempt.

(4) A parent committed under subsection (2)(e) or (f) shall be released if the court has reasonable cause to believe that the parent will comply with the parenting time order.

Section 2. This amendatory act shall take effect June 1, 1996.

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.