



SENATE BILL No. 624

June 15, 1995, Introduced by Senators BERRYMAN, GEAKE, DINGELL, HOFFMAN, GOUGEON, SHUGARS, STILLE, MC MANUS, BYRUM and EMMONS and referred to the Committee on Families, Mental Health and Human Services.

A bill 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 "Support and visitation enforcement act," section 3 as amended by Act No. 256 of the Public Acts of 1993 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:

1 Section 1. The title and sections 1, 3, 41, 42, and 44 of
2 Act No. 295 of the Public Acts of 1982, section 3 as amended by
3 Act No. 256 of the Public Acts of 1993 and sections 41, 42, and
4 44 as amended by Act No. 210 of the Public Acts of 1985, being
5 sections 552.601, 552.603, 552.641, 552.642, and 552.644 of the
6 Michigan Compiled Laws, are amended to read as follows:

1 TITLE

2 An act to supplement statutes ~~which~~ THAT provide for the
3 enforcement of support and ~~visitation~~ PARENTING TIME orders
4 with respect to divorce, separate maintenance, paternity, child
5 custody, and spouse support; to prescribe the powers and duties
6 of the circuit court and friend of the court; to prescribe cer-
7 tain duties of certain employers and other sources of income; to
8 provide for penalties and remedies; and to repeal certain acts
9 and parts of acts.

10 Sec. 1. This act shall be known and may be cited as the
11 "support and ~~visitation~~ PARENTING TIME enforcement act".

12 Sec. 3. (1) A support order issued by a court of this state
13 shall be enforced ~~pursuant to~~ UNDER this section.

14 (2) Except as otherwise provided in this section, a support
15 order that is part of a judgment or is an order in a domestic
16 relations matter as defined in section 31 of the friend of the
17 court act, Act No. 294 of the Public Acts of 1982, being section
18 552.531 of the Michigan Compiled Laws, is a judgment on and after
19 the date each support payment is due, with the full force,
20 effect, and attributes of a judgment of this state, and is not,
21 on and after the date it is due, subject to retroactive
22 modification. Retroactive modification of a support payment due
23 under a support order is permissible with respect to any period
24 during which there is pending a petition for modification, but
25 only from the date that notice of the petition was given to the
26 payer or recipient of support.

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

4 (4) The office of the friend of the court shall make avail-
5 able to a payer or payee the forms and instructions described in
6 section 17a of ~~the friend of the court act,~~ Act No. 294 of the
7 Public Acts of 1982, being section 552.517a of the Michigan
8 Compiled Laws.

9 (5) This section does not prohibit a court approved agree-
10 ment between the parties to retroactively modify a support
11 order. This section does not limit other enforcement remedies
12 available under this act or any other act.

13 (6) Every support order that is part of a judgment issued by
14 a court of this state or that is an order in a domestic relations
15 matter as defined in section 31 of ~~the friend of the court act,~~
16 Act No. 294 of the Public Acts of 1982, shall include both of the
17 following:

18 (a) Substantially the following statement: "Except as oth-
19 erwise provided in section 3 of the support and ~~visitation~~
20 PARENTING TIME enforcement act, Mich. Comp. Laws §552.603 (1979),
21 a support order that is part of a judgment or that is an order in
22 a domestic relations matter as defined in section 31 of the
23 friend of the court act, Mich. Comp. Laws §552.531 (1979), is a
24 judgment on and after the date each support payment is due, with
25 the full force, effect, and attributes of a judgment of this
26 state, and is not, on and after the date it is due, subject to
27 retroactive modification."

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

4 Sec. 41. (1) Except as provided in subsection (2), the
5 friend of the court shall do 1 or more of the following in a dis-
6 pute concerning ~~visitation~~ PARENTING TIME of a minor child:

7 (a) Apply a makeup ~~visitation~~ PARENTING TIME policy estab-
8 lished under section 42.

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

10 (c) Petition the court for a modification of existing
11 ~~visitation~~ PARENTING TIME provisions to ensure ~~visitation~~
12 PARENTING TIME, unless contrary to the best interests of the
13 child. A written report and recommendation shall accompany the
14 petition.

15 (2) The friend of the court shall not invoke ~~any option~~ 1
16 OR MORE OF THE OPTIONS under subsection (1) if the parties
17 resolve their dispute through an informal joint meeting or
18 through domestic relations mediation as provided under section 11
19 or 13 of the friend of the court act, ACT NO. 294 OF THE PUBLIC
20 ACTS OF 1982, BEING SECTIONS 552.511 AND 552.513 OF THE MICHIGAN
21 COMPILED LAWS.

22 Sec. 42. (1) Not later than 180 days after the enactment
23 date of this amendatory act, each circuit shall formulate a
24 makeup ~~visitation~~ PARENTING TIME policy under which a noncusto-
25 dial parent who has been wrongfully denied ~~visitation~~ PARENTING
26 TIME is able to make up the ~~visitation~~ PARENTING TIME at a
27 later date. The policy ~~shall~~ DOES not apply until it is

1 approved by the chief circuit judge or only circuit judge of the
2 circuit.

3 (2) Before a makeup ~~visitation~~ PARENTING TIME policy is
4 applied in a particular case, the office of the friend of the
5 court shall send to both parties a notice, by ordinary mail to
6 the person's last known address, that the policy will be applied
7 in their case.

8 (3) A makeup ~~visitation~~ PARENTING TIME policy formulated
9 and approved under this section shall include all of the
10 following:

11 (a) Makeup ~~visitation~~ PARENTING TIME shall be the same
12 type and duration of ~~visitation~~ PARENTING TIME as the
13 ~~visitation~~ PARENTING TIME that was denied, including but not
14 limited to weekend ~~visitation~~ PARENTING TIME for weekend
15 ~~visitation~~ PARENTING TIME, holiday ~~visitation~~ PARENTING TIME
16 for holiday ~~visitation~~ PARENTING TIME, weekday ~~visitation~~
17 PARENTING TIME for weekday ~~visitation~~ PARENTING TIME, and
18 summer ~~visitation~~ PARENTING TIME for summer ~~visitation~~
19 PARENTING TIME.

20 (b) Makeup ~~visitation~~ PARENTING TIME shall be taken within
21 1 year after the wrongfully denied ~~visitation~~ PARENTING TIME
22 WAS TO HAVE occurred.

23 (c) The time of the makeup ~~visitation~~ PARENTING TIME shall
24 be chosen by the noncustodial parent.

25 (4) Beginning upon approval of a makeup ~~visitation~~
26 PARENTING TIME policy formulated pursuant to subsection (1), the
27 office of the friend of the court shall keep an accurate record

1 of alleged ~~visitation~~ PARENTING TIME arrears and the
2 noncustodial parent shall give to the office written notice of an
3 alleged, wrongfully denied ~~visitation~~ PARENTING TIME within 7
4 days of alleged denial.

5 (5) Beginning upon approval of a makeup ~~visitation~~
6 PARENTING TIME policy formulated ~~pursuant to~~ UNDER subsection
7 (1), if a wrongfully denied ~~visitation~~ PARENTING TIME is
8 alleged and the friend of the court determines that action should
9 be taken under section 41(1)(a), the following shall apply:

10 (a) The office of the friend of the court shall give to the
11 custodial parent within 5 days after receipt of the notice of
12 denied ~~visitation~~ PARENTING TIME under subsection (4) a notice,
13 which shall contain the following statement in boldface type of
14 not less than 12 points:

15 "FAILURE TO RESPOND IN 7 DAYS TO THE OFFICE OF THE FRIEND
16 OF THE COURT SHALL BE CONSIDERED AS AN AGREEMENT THAT
17 ~~VISITATION~~ PARENTING TIME WAS WRONGFULLY DENIED AND THAT
18 OFFICE WILL ADJUST THE ACCOUNT OF ~~VISITATION~~ PARENTING
19 TIME ARREARS ACCORDINGLY."

20 (b) If the custodial parent makes a timely reply contesting
21 the alleged wrongful denial of ~~visitation~~ PARENTING TIME, a
22 hearing shall be held by a referee or a circuit judge after
23 notice is given to both parties.

24 (c) The referee or judge shall determine whether
25 ~~visitation~~ PARENTING TIME was wrongfully denied.

1 (d) If the hearing provided under subdivision (b) is held
2 before a referee, either party ~~shall be~~ IS entitled to a de
3 novo hearing before a circuit court judge as provided in section
4 7(5) of ~~the friend of the court act,~~ ACT NO. 294 OF THE PUBLIC
5 ACTS OF 1982, being section 552.507 of the Michigan Compiled
6 Laws.

7 (e) After a final determination that ~~visitation~~ PARENTING
8 TIME was wrongfully denied, the office of the friend of the court
9 shall adjust the ~~visitation~~ PARENTING TIME arrears account
10 accordingly.

11 (f) The noncustodial parent shall give to the office of the
12 friend of the court and custodial parent a written notice of
13 makeup ~~visitation~~ PARENTING TIME at least 1 week before a
14 makeup weekday or weekend ~~visitation~~ PARENTING TIME or at least
15 30 days before a makeup holiday or makeup summer ~~visitation~~
16 PARENTING TIME.

17 Sec. 44. (1) If the office of the friend of the court
18 determines that action should be taken under section 41(1)(b),
19 the office of the friend of the court shall commence a civil con-
20 tempt proceeding to resolve a dispute concerning ~~visitation~~
21 PARENTING TIME of a minor child by filing with the circuit court
22 a petition for an order to show cause why either parent who has
23 violated a ~~visitation~~ PARENTING TIME order should not be held
24 in contempt.

25 (2) If the court finds that either parent has violated a
26 ~~visitation~~ PARENTING TIME order, the court shall find that
27 parent in contempt and may do 1 or more of the following:

1 (a) Require additional terms and conditions consistent with
2 the court's ~~visitation~~ PARENTING TIME order.

3 (b) After notice to both parties and a hearing, if requested
4 by a party, on any proposed modification of ~~visitation~~
5 PARENTING TIME, modify the ~~visitation~~ PARENTING TIME order to
6 meet the best interests of the child.

7 (c) Order that makeup ~~visitation~~ PARENTING TIME be pro-
8 vided for the noncustodial parent to take the place of wrongfully
9 denied ~~visitation~~ PARENTING TIME.

10 (d) Order the parent to pay a fine of not more than
11 \$100.00.

12 (e) Commit the parent to the county jail.

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

18 (3) A commitment under subsection (2)(e) or (f) shall not
19 exceed 45 days for the first finding of contempt or 90 days for
20 ~~any~~ EACH subsequent finding of contempt.

21 (4) A parent committed under subsection (2)(e) or (f) shall
22 be released if the court has reasonable cause to believe that the
23 parent will comply with the ~~visitation~~ PARENTING TIME order.