

Act No. 334
Public Acts of 1998
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Senator Peters

ENROLLED SENATE BILL No. 803

AN ACT to amend 1982 PA 295, entitled "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," by amending sections 2, 3, 4, 7, 9, 11, 11a, 12, 13, 14, 17, 19, 23, 25, 26, 26a, 26b, 28, 29, 30, 33, 35, 44, and 45 (MCL 552.602, 552.603, 552.604, 552.607, 552.609, 552.611, 552.611a, 552.612, 552.613, 552.614, 552.617, 552.619, 552.623, 552.625, 552.626, 552.626a, 552.626b, 552.628, 552.629, 552.630, 552.633, 552.635, 552.644, and 552.645), sections 2, 3, and 23 as amended and sections 28, 29, 30, and 45 as added by 1996 PA 239, sections 4 and 19 as amended by 1992 PA 291, sections 7 and 14 as amended and section 25 as added by 1985 PA 210, sections 9 and 11a as amended and sections 26, 26a, and 26b as added by 1995 PA 236, sections 11 and 17 as amended by 1996 PA 367, sections 33 and 35 as amended by 1996 PA 336, and section 44 as amended by 1996 PA 301, and by adding sections 24a, 25a, and 25b.

The People of the State of Michigan enact:

Sec. 2. As used in this act:

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

- (i) A demand deposit account.
- (ii) A draft account.
- (iii) A checking account.
- (iv) A negotiable order of withdrawal account.
- (v) A share account.
- (vi) A savings account.
- (vii) A time savings account.
- (viii) A mutual fund account.
- (ix) A securities brokerage account.
- (x) A money market account.
- (xi) A retail investment account.

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

- (i) A trust.
- (ii) An annuity.

- (iii) A qualified individual retirement account.
 - (iv) An account covered by the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829.
 - (v) A pension or retirement plan.
 - (vi) An insurance policy.
- (c) "Address" means the primary address shown on the records of a financial institution used by the financial institution to contact the account holder.
- (d) "Driver's license" means license as that term is defined in section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25.
- (e) "Employer" means an individual, sole proprietorship, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that hires and pays an individual for his or her services.
- (f) "Financial asset" means a deposit, account, money market fund, stock, bond, or similar instrument.
- (g) "Financial institution" means any of the following:
- (i) A state or national bank.
 - (ii) A state or federally chartered savings and loan association.
 - (iii) A state or federally chartered savings bank.
 - (iv) A state or federally chartered credit union.
 - (v) An insurance company.
 - (vi) An entity that offers any of the following to a resident of this state:
 - (A) A mutual fund account.
 - (B) A securities brokerage account.
 - (C) A money market account.
 - (D) A retail investment account.
 - (vii) An entity regulated by the securities and exchange commission that collects funds from the public.
 - (viii) An entity that is a member of the national association of securities dealers and that collects funds from the public.
 - (ix) Another entity that collects funds from the public.
- (h) "Friend of the court act" means 1982 PA 294, MCL 552.501 to 552.535.
- (i) "Income" means any of the following:
- (i) Commissions, earnings, salaries, wages, and other income due or to be due in the future to an individual from his or her employer and successor employers.
 - (ii) A payment due or to be due in the future to an individual from a profit-sharing plan, a pension plan, an insurance contract, an annuity, social security, unemployment compensation, supplemental unemployment benefits, or worker's compensation.
 - (iii) An amount of money that is due to an individual as a debt of another individual, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that is indebted to the individual.
- (j) "Insurer" means an insurer, health maintenance organization, health care corporation, or other group, plan, or entity that provides health care coverage in accordance with any of the following acts:
- (i) The public health code, 1978 PA 368, MCL 333.1101 to 333.25211.
 - (ii) The insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.
 - (iii) The nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704.
- (k) "Medical assistance" means medical assistance as established under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396f, 1396g-1 to 1396r-6, and 1396r-8 to 1396v.
- (l) "Occupational license" means a certificate, registration, or license issued by a state department, bureau, or agency that has regulatory authority over an individual that allows an individual to legally engage in a regulated occupation or that allows the individual to use a specific title in the practice of an occupation, profession, or vocation.
- (m) "Office of child support" means the office of child support established in section 2 of the office of child support act, 1971 PA 174, MCL 400.232.
- (n) "Office of the friend of the court" means the agency created in section 3 of the friend of the court act, MCL 552.503.

(o) "Order of income withholding" means an order entered by the circuit court providing for the withholding of a payer's income to enforce a support order under this act.

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

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

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

(s) "Recipient of support" means the following:

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

(ii) The custodial parent or guardian, if the support order orders support for a minor child or a child who is 18 years of age or older.

(iii) The family independence agency, if support has been assigned to that department.

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

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

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

(w) "Support" means all of the following:

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

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

(iii) A surcharge accumulated under section 3a.

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

(y) "Work activity" means any of the following:

(i) Unsubsidized employment.

(ii) Subsidized private sector employment.

(iii) Subsidized public sector employment.

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

(v) On-the-job training.

(vi) Job search and job readiness assistance.

(vii) Community service programs.

(viii) Vocational educational training, not to exceed 12 months with respect to any 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. 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 2 of the friend of the court act, MCL 552.502, 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 under 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, MCL 552.517a.

(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 2 of the friend of the court act, MCL 552.502, shall include all of the following:

(a) Substantially the following statement: "Except as otherwise provided in section 3 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.603, a support order that is part of a judgment or that is an order in a domestic relations matter as defined in section 2 of the friend of the court act, 1982 PA 294, MCL 552.502, 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, 1982 PA 295, MCL 552.603a."

(b) Notice informing the payer of the imposition of liens by operation of law and that the payer's real and personal property can be encumbered or seized if an arrearage accrues in an amount greater than the amount of periodic support payments payable for 1 year under the payer's support order.

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

(d) A requirement that both the payer and payee notify the office of the friend of the court if he or she holds an occupational license and if he or she holds a driver's license.

(e) The name, address, and telephone number of the payer's current source of income.

(f) A requirement that both the payer and payee inform the office of the friend of the court of his or her social security number and driver's license number. The requirement of this subdivision to provide a social security number with the information does not apply to a payer or payee who demonstrates he or she is exempt under law from obtaining a social security number or to a payer or payee who for religious convictions is exempt under law from disclosure of his or her social security number under these circumstances. The court shall inform the payer and payee of this possible exemption.

(7) A support order shall not accrue interest.

Sec. 4. (1) After July 1, 1983, each support order entered or modified by the circuit court shall provide for an order of income withholding.

(2) Each support order entered by the circuit court on or before July 1, 1983 shall be considered to provide for an order of income withholding by operation of law, and income withholding shall be implemented under the same circumstances and enforced in the same manner as in the case of orders of income withholding provided for pursuant to subsection (1). The office of the friend of the court shall send notice of the provisions of this subsection by ordinary mail to each payer under a support order entered by the circuit court on or before July 1, 1983 to whom this subsection applies.

(3) An order of income withholding in a support order including consideration of any abatements of support entered or modified after December 31, 1990, shall take effect immediately unless 1 of the following applies:

(a) The court finds, upon notice and hearing, that there is good cause for the order of income withholding not to take effect immediately. For purposes of this subdivision, a finding of good cause shall be based on at least all of the following:

(i) A written and specific finding by the court why immediate income withholding would not be in the best interests of the child.

(ii) Proof of timely payment of previously ordered support, if applicable.

(iii) An agreement by the payer that he or she shall keep the office of the friend of the court informed of both of the following:

(A) The name, address, and telephone number of his or her current source of income.

(B) Any health care coverage that is available to him or her as a benefit of employment or that is maintained by him or her; the name of the insurer; the policy, certificate, or contract number; and the names and birth dates of the persons for whose benefit he or she maintains health care coverage under the policy, certificate, or contract.

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

(i) The order of income withholding shall not take effect immediately.

(ii) An alternative payment arrangement.

(iii) That the payer shall keep the office of the friend of the court informed of both of the following:

(A) The name, address, and telephone number of his or her current source of income.

(B) Any health care coverage that is available to him or her as a benefit of employment or that is maintained by him or her; the name of the insurer; the policy, certificate, or contract number; and names and birth dates of the persons for whose benefit he or she maintains health care coverage under the policy, certificate, or contract.

(4) Except as otherwise provided in subsection (3)(a) or (b), an order of income withholding in an ex parte interim support order shall take effect after the expiration of 14 days after the order has been served on the opposite party unless the opposite party files a written objection to the ex parte interim support order during that 14-day period.

(5) An order of income withholding that does not take effect immediately pursuant to this section shall take effect when the requirement of section 7 is met.

(6) The court for cause or at the request of the payer may order the withholding of income to take effect immediately.

(7) An order of income withholding in a support order entered on or before December 31, 1990 shall take effect when the requirement of section 7 is met.

Sec. 7. (1) If the fixed amount of arrearage determined under section 11(1) of the friend of the court act, MCL 552.511, is reached, the office of the friend of the court immediately shall send notice of the arrearage to the payer by ordinary mail to his or her last known address. The notice to the payer shall contain the following information:

(a) The amount of the arrearage.

(b) That the payer's income is subject to income withholding and the amount to be withheld.

(c) That income withholding will be applied to current and subsequent employers and periods of employment and other sources of income.

(d) That the order of income withholding is effective and notice to withhold income will be sent to the payer's source of income.

(e) That the payer may request a hearing within 14 days after the date of the notice to contest the withholding, but only on the grounds that the withholding is not proper because of a mistake of fact concerning the amount of current or overdue support or the identity of the payer.

(f) That if the hearing is held before a referee, the payer has a right to a de novo hearing before a circuit court judge.

(g) That if the payer believes that the amount of support should be modified due to a change in circumstances, the payer may file a petition with the court for modification of the support order.

(2) A copy of the notice provided for in subsection (1) shall be sent by ordinary mail to each recipient of support.

(3) A payer to whom notice is sent under subsection (1), within 14 days after the date on which the notice was sent, may request a hearing on the grounds that the withholding is not proper because of a mistake of fact concerning the amount of current or overdue support or the identity of the payer.

(4) A referee or circuit judge shall hold a hearing requested under this section within 14 days after the date of the request. If at the hearing the payer establishes that the withholding is not proper because of a mistake of fact concerning the amount of current or overdue support or the identity of the payer, the referee or circuit judge may direct that the order of income withholding be rescinded until such time as the referee or judge determines.

(5) If the hearing provided under subsection (4) is held before a referee, either party may request a de novo hearing as provided in section 7(5) of the friend of the court act, MCL 552.507.

(6) If a petition for modification of the support order is filed by or on behalf of a payer and is pending at the date scheduled for a hearing under subsection (4), the court may consolidate the hearing under subsection (4) and a hearing on the petition for modification.

(7) All proceedings under this section shall be completed within 45 days after the date that notice was sent under subsection (1), unless otherwise permitted by the court upon a showing of good cause.

Sec. 9. A notice of income withholding entered under this act shall be served on sources of income as provided in section 11. The notice shall direct sources of income to withhold from income due the payer and to pay to the office of the friend of the court for the judicial circuit in which the order was entered an amount sufficient to meet the payments ordered for support and service fees, and to defray arrearages in payments and service fees due at the time the order of income withholding takes effect. The notice shall also direct that the amount withheld for support, fees, and health care coverage premiums shall not exceed the amount allowed under section 303(b) of title III of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1673. The notice shall contain a statement of the requirements of sections

11, 11a, 12, 13, 14, and 23. The notice shall also direct that income withheld under the notice for support and fees shall be paid to the office of the friend of the court within 3 days after the date of the withholding.

Sec. 11. An order of income withholding entered under this act is binding upon a source of income 7 days after service upon that source of income of a notice of the order of income withholding by ordinary mail or by electronic means as agreed by the source of income and the office of the friend of the court. The order of income withholding remains in effect until further order of the court. An order of income withholding has priority over all other legal process under state law against the same income.

Sec. 11a. (1) If there is more than 1 order to withhold income for support, fees, or health care coverage premiums against a payer or parent under this act, the source of income shall comply with all of the notices to withhold income to the extent that the total amount withheld from the payer's or parent's income does not exceed the limits imposed under section 303(b) of title III of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1673, giving priority to amounts designated in each notice as current support, as follows:

(a) If the total of the amounts designated in the notices as current support exceeds the amount available for income withholding, then the source of income shall allocate to each order an amount for current support equal to the amount designated in the notice as current support, divided by the total of the amounts designated in the notices as current support, multiplied by the amount of income available for income withholding.

(b) If the total of the amounts designated in the notices as current support does not exceed the amount available for income withholding, then the source of income shall pay the amounts designated as current support, and in addition shall proportionately allocate to each order an amount for past due support not to exceed the amount designated in the notice as past due support. This subdivision does not require the maximum withholding to satisfy past due child or spousal support.

(c) If the total amounts allocated to current and past due support do not exceed the amount available for income withholding, then the source of income shall allocate the remaining income to the parent's portion of health care coverage premiums attributable to coverage of the children specified in the order if remaining income is sufficient to cover the cost of the premium. This subdivision does not require a source of income to pay the parent's portion of health care coverage premiums.

(2) A source of income is liable for any amount that the source knowingly and intentionally fails to withhold from the payer's income following service on the source of income of a notice of income withholding, except to the extent that the amount is limited by subsection (1) and section 303(b) of title III of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1673.

(3) A source of income shall identify each withholding by payer, payer's social security number, case number, amount withheld, and the date on which support was withheld from the payer's income. If the source of income is an employer, it shall provide its federal employer identification number to the office of the friend of the court.

(4) A source of income may combine amounts withheld from payers' incomes in a single payment and separately identify by payer, social security number, and case number the portion of the single payment that is attributable to each individual payer.

Sec. 12. Compliance by the source of income with a notice of income withholding operates as a discharge of the source's liability to the payer as to that portion of the payer's income affected.

Sec. 13. The court may find a source of income in contempt and fine the source of income if the source of income is served with a notice of income withholding and fails to comply with the notice or to pay withheld amounts to the friend of the court after the order becomes binding under section 11.

Sec. 14. (1) A source of income that has been served with a notice of income withholding or with an order or notice of an order for dependent health care coverage shall notify the appropriate office of the friend of the court if the parent's income from that source is terminated.

(2) If the source of income is an employer, the source of income shall promptly notify the appropriate office of the friend of the court when the payer's employment is terminated or interrupted for a period of 14 or more consecutive days, and shall provide the payer's last known address and the name and address of the payer's new employer or other source of income, if known. The office of the friend of the court shall immediately serve the payer's new employer or other source of income with a notice of income withholding and, if the payer's source of income is an employer, with a notice of the order for dependent health care coverage.

Sec. 17. If the court orders a modification in support and an order of income withholding has been entered under this act, the office of the friend of the court shall give to a source of income to which notice of income withholding was sent under section 11 a notice of the modification by ordinary mail or by electronic means as agreed by the source of income

and the office of the friend of the court. The amount assigned or withheld shall be changed to conform with the court ordered modification 7 days after receipt of the notice of modification.

Sec. 19. (1) If the court awards to the payer sole custody 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, 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 court shall suspend or terminate an order of income withholding under any of the following circumstances:

(a) The location of the child and custodial parent cannot be determined by the friend of the court for a period of 90 days or more.

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

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

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

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

(ii) An alternative payment arrangement.

(iii) The payer shall keep the office of the friend of the court informed of both of the following:

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

(B) Any health care coverage that is available to him or her as a benefit of employment or that is maintained by him or her; the name of the insurance company, health care organization, or health maintenance organization; the policy, certificate, or contract number; and names and birth dates of the persons for whose benefit he or she maintains health care coverage under the policy, certificate, or contract.

(3) The parties shall not enter into a written agreement pursuant to subsection (2)(d) if either of the following circumstances exists:

(i) There is a support arrearage.

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

(4) If a written agreement is entered into pursuant to subsection (2)(d), the order of income withholding shall take effect when the fixed amount of arrearage determined under section 11(1) of the friend of the court act, MCL 552.511, is reached.

(5) The court may suspend or terminate an order of income withholding if the custodial parent moves out of the state without court authorization.

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

Sec. 23. (1) A source of income shall not use a notice of income withholding as a basis for refusing to employ, discharging, taking disciplinary action against, or imposing a penalty against a payer. A source of income who refuses to employ, discharges, disciplines, or penalizes a payer in violation of this section is guilty of a misdemeanor, punishable by a fine of not more than \$500.00, and shall be required to make full restitution to the aggrieved payer, including reinstatement and back pay.

(2) A source of income shall not use the suspension, as provided for in this act, of an occupational license, driver's license, or recreational or sporting license as the basis for refusing to employ, discharging, taking disciplinary action against, or imposing a penalty against a payer unless the suspended license is legally required for the payer's performance of the job. This act does not prevent a source of income from refusing to employ or discharging an individual whose occupational license, driver's license, or recreational or sporting license is suspended if that license is a necessary predicate to engage in that occupation, vocation, or profession.

Sec. 24a. If a support arrearage has accrued and there is reason to believe the payer transferred title or ownership of real or personal property without fair consideration, the office of the friend of the court shall initiate proceedings to have the transfer set aside as provided in the uniform fraudulent conveyance act, 1919 PA 310, MCL 566.11 to 566.23, or obtain a settlement in the form of full payment of the arrearage or in periodic repayments as is possible in the best interest of the recipient of support.

Sec. 25. In addition to providing remedies or imposing penalties otherwise available under this act or other law for the enforcement of support orders, the court, upon petition by the office of the friend of the court or recipient of support and after notice to the payer and an opportunity for a hearing, may require a payer to provide sufficient bond, security, or other guarantee to secure the payment of support that is past due, or due in the future, or both. Upon default in the payment of an amount secured by the bond, the court, after notice to the payer and sureties, if any, and an opportunity for a hearing, may render judgment against the payer and sureties for the amount of unpaid support. Upon default in the payment of the amount awarded in the judgment, the court may order execution of the judgment; appoint a receiver of the real and personal property of the payer and order the property and its income to be applied to the amount of the judgment; or take any other appropriate action to enforce the judgment.

Sec. 25a. (1) The amount of past due support that accrues under a judgment pursuant to section 3 or under the law of another state constitutes a lien in favor of the recipient of support against the real and personal property of a payer, other than financial assets pledged to a financial institution as collateral or financial assets to which a financial institution has a prior right of setoff or other lien. The lien is effective at the time that the support is due and unpaid and shall continue until the amount of past due support is paid in full or the lien is terminated by the support enforcement agency.

(2) Liens that arise in other states shall be accorded full faith and credit when the requirements of section 25b are met.

Sec. 25b. (1) The office of the friend of the court may perfect a lien created under section 25a upon the real or personal property of the payer when an arrearage has accrued in an amount that exceeds the amount of periodic support payments payable for 1 year under the payer's support order.

(2) Before a lien is perfected in a case in which a support order was issued before the effective date of this section, the office of the friend of the court shall send a notice to the payer subject to the support order informing the payer of the imposition of liens by operation of law and that the payer's real and personal property can be encumbered or seized if an arrearage accrues in an amount that exceeds the amount of periodic support payments payable for 1 year under the payer's support order.

(3) If the arrearage under subsection (2) is reached and the office of the friend of the court has determined that the delinquent payer holds real or personal property, the office of the friend of the court may perfect the lien.

(4) The office of the friend of the court shall provide a copy of the notice under subsection (2) to each of the following:

(a) A financial institution doing business in this state if the payer has 1 or more accounts at that financial institution.

(b) The appropriate agency of another state if the payer holds assets in that other state.

(5) The office of the friend of the court may provide notice of the lien and subsequent notices by paper or automated means.

(6) To perfect a lien created by section 25a, the office of the friend of the court must record the lien with the register of deeds in the county where the real property is located, or for personal property, in the appropriate state or county office. A lien recorded as provided in this subsection takes effect on the date and at the time of that recording.

(7) The office of the friend of the court shall notify the payer when the office of the friend of the court has perfected a lien against real or personal property of the payer. The notice shall be sent by ordinary mail to the payer's last known address. A copy of the notice shall be sent by ordinary mail to the recipient of support. The notice shall include all of the following:

(a) The amount of the arrearage.

(b) That a lien is in effect on the real or personal property of the payer.

(c) That the property is subject to seizure unless the payer responds by paying the arrearage or requesting a review within 21 days after the date of mailing the notice.

(d) That, at the review, the payer may object to the lien and proposed action based on a mistake of fact concerning the overdue support amount or the payer's identity.

(e) That, if the payer believes that the amount of support ordered should be modified because of a change in circumstances, the payer may file a petition with the court for modification of the support order.

(8) Within 21 days after the date on which the notice described in subsection (7) is mailed to a payer, the payer may request a review on the lien and the proposed action. If the payer requests a review under this subsection, the office of the friend of the court shall schedule the review within 14 days after the date of the request.

(9) If, at the review, the payer establishes that the lien is not proper because of a mistake of fact, the office of the friend of the court shall terminate the lien and, within 7 days, notify the applicable entity that the lien is terminated.

(10) If the payer fails to request a review, to appear for a review, or to establish a mistake of fact, the office of the friend of the court may collect the arrearage by levy upon any property belonging to the payer as provided in this section. The office of the friend of the court shall notify the payer at the review or by written notice of its intent to levy.

(11) To enforce a lien under this section by levying against an account at a financial institution, the office of the friend of the court shall provide notice in the manner provided by law for levying against an account at a financial institution.

(12) To enforce a lien on real property or personal property other than an account at a financial institution, the office may order the sale of real property in the manner provided by law for the foreclosure of mortgage liens; order execution of the judgment; appoint a receiver of the real and personal property subject to the lien and order the property and its income to be applied to the amount of the judgment; or take any other appropriate action to enforce the judgment. The office shall mail a copy of orders under this subsection to the payer and recipient of support at his or her last known address.

(13) A lien created under section 25a is subordinate to any prior perfected lien.

(14) A payer may request that the office of the friend of the court terminate a lien against the real and personal property of the payer on the basis that the payer is no longer in arrears. If the payer is no longer in arrears, the office of the friend of the court shall terminate the lien pursuant to law.

(15) An entity is not liable under any federal or state law to any person for any disclosure of information to the office or the designee of the office under this section or for any other action taken in good faith to comply with the requirements of this section.

Sec. 26. If a parent fails to obtain or maintain health care coverage for the parent's child as ordered by the court, the office of the friend of the court shall, as applicable, do either of the following:

(a) Petition the court for an order to show cause why the parent should not be held in contempt for failure to obtain or maintain dependent health care coverage that is available at a reasonable cost.

(b) Send notice of noncompliance to the parent. The notice shall contain all of the following information:

(i) That the office will notify the parent's employer to deduct premiums for, and to notify the insurer or plan administrator to enroll the child in, dependent health care coverage unless the parent does either of the following within 14 days after mailing of the notice:

(A) Submits written proof to the friend of the court of the child's enrollment in a health care coverage plan.

(B) Requests a hearing to determine the availability or reasonable cost of the health care coverage.

(ii) That the order for dependent health care coverage will be applied to current and subsequent employers and periods of employment.

Sec. 26a. (1) If a parent is eligible for health care coverage through an employer doing business in the state, the employer shall notify its insurer or plan administrator and take other action as required to enroll that parent's child in its health care coverage plan or plans, without regard to any enrollment period restrictions, when all of the following exist:

(a) The parent is required by a court or administrative order to provide health care coverage for the parent's child.

(b) The child is eligible for coverage under the plan. A child cannot be denied enrollment or coverage on the grounds that the child was born out of wedlock, is not claimed as a dependent on the parent's federal income tax return, does not reside with the parent or in the insurer's service area, or is eligible for or receiving medical assistance.

(c) The employee applies for coverage for the child or, if the employee fails to apply, the friend of the court or child's other parent through the friend of the court applies for coverage for the child. Application by the friend of the court shall be in the form of the order for dependent health care coverage or a notice of the order for dependent health care coverage.

(2) If coverage is available through the parent's employer, the employer shall withhold from the employee's income the employee's share, if any, of premiums for dependent health care coverage not to exceed the amount allowed under section 8 and pay that amount to the insurer or plan administrator.

(3) An employer shall not disenroll or eliminate health care coverage of a child eligible for coverage and enrolled under subsection (1) unless the employer is provided with satisfactory written evidence that 1 of the following applies:

(a) The court or administrative order requiring health care coverage is no longer in effect.

(b) The child is or will be enrolled in comparable health care coverage that takes effect not later than the effective date of the disenrollment from the existing plan.

(c) The employer has eliminated dependent health care coverage for all of its employees or members.

Sec. 26b. (1) An order for dependent health care coverage entered under this act shall include the information required in a qualified order as specified in section 609 of part 6 of subtitle B of title I of the employee retirement income security act of 1974, Public Law 93-406, 29 U.S.C. 1169, if the health care coverage plan of the individual who is responsible for providing a child with health care coverage is subject to that act.

(2) An order or notice of an order for dependent health care coverage served on an employer shall direct the employer to withhold from the employee's income the employee's share, if any, of premiums for dependent health care coverage and pay that amount to the insurer or plan administrator. The order or notice shall also direct that the amount withheld for support, fees, and health care premiums shall not exceed the amount allowed under section 303(b) of title III of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1673.

(3) An order or notice of an order for dependent health care coverage under this section may be combined with an order or notice of income withholding under section 9.

Sec. 28. (1) The office of the friend of the court may petition the court for an order to suspend a payer's occupational license, driver's license, or recreational or sporting license, or any combination of the licenses, if all of the following circumstances are true:

(a) An arrearage has accrued in an amount greater than the amount of periodic support payments payable for 6 months under the payer's support order.

(b) The payer holds an occupational license, driver's license, or recreational or sporting license or the payer's occupation requires an occupational license.

(c) An order of income withholding is not applicable or has been unsuccessful in assuring regular payments on the support obligation and regular payments on the arrearage.

(2) An office of the friend of the court shall not file a petition as authorized under subsection (1) unless the office sends the payer a notice that includes all of the following information:

(a) The amount of the arrearage.

(b) That the payer's occupational license, driver's license, or recreational or sporting license, or any combination of the licenses, may be subject to an order of suspension.

(c) That the suspension order will be entered and sent to the licensing agency unless the payer responds by paying the arrearage or requesting a hearing within 21 days after the date of mailing the notice.

(d) That, at the hearing, the payer may do either of the following:

(i) Object to the proposed suspension based on a mistake of fact concerning the overdue support amount or the payer's identity.

(ii) Suggest to the court a schedule for the payment of the arrearage.

(e) That, if the payer believes that the amount of support ordered should be modified due to a change in circumstances, the payer may file a petition with the court for modification of the support order.

Sec. 29. (1) Within 21 days after the date on which the notice described in section 28 is mailed to a payer, the payer may request a hearing on the proposed suspension. If the payer requests a hearing within that time, entry of the suspension order shall be delayed pending the outcome of the hearing.

(2) If a payer files a petition for modification of the support order and the petition is pending at the date scheduled for a hearing under this section, the court shall consolidate the hearing under this section and a hearing on the petition for modification unless the court finds for good cause shown on the record that the hearings should be held separately. If the court finds that the hearings should be held separately, the hearing on the petition for modification shall be held before the hearing scheduled under this section.

(3) If the court determines that the payer has accrued an arrearage on his or her support order and that the payer has, or could by the exercise of due diligence have, the capacity to pay all or some portion of the amount due, the court shall order the payment of the arrearage in 1 or more scheduled installments of a sum certain.

(4) After 21 days after the date on which the notice described in section 28 is sent, the court may order the suspension of the payer's occupational license, driver's license, or recreational or sporting license, or any combination of the licenses included in the notice under section 28, under either of the following circumstances:

(a) The payer fails to pay the arrearage and fails to either request a hearing as provided in subsection (1) or appear for a hearing scheduled after such a request.

(b) The payer fails to comply with an arrearage payment schedule ordered under this section.

Sec. 30. (1) If the court orders a suspension of an occupational license, driver's license, or recreational or sporting license, or any combination of the licenses, under section 29, 33, 35, or 45, the order shall indicate that the licensing agency shall suspend the license within 7 business days after receipt of the suspension order. The office of the friend of the court shall send a copy of the suspension order to the licensing agency. If the payer is the subject of a suspension order under section 29 and has failed to respond in any manner to the notice given under section 28, the office of the friend of the court shall not send the suspension order to the licensing agency until at least 14 days after the date the office first attempts service of a copy of the order on the payer by personal service or by registered or certified mail, return receipt requested, with delivery restricted to the payer.

(2) After entry of a suspension order under section 29, a payer may agree to and the court may order a schedule for the payment of the arrearage. If the court orders a schedule for payment of the arrearage, the court shall enter an order rescinding the suspension order that is effective as provided in section 4 of the regulated occupation support enforcement act, 1996 PA 236, MCL 338.3434, section 321c of the Michigan vehicle code, 1949 PA 300, MCL 257.321c, or section 43559 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.43559. If a suspension order has been sent, within 7 business days after entry of the order rescinding the suspension order, the office of the friend of the court shall send a copy of the order rescinding the suspension order to the licensing agency.

Sec. 33. (1) The court may find a payer in contempt if the court finds that the payer is in arrears and if the court is satisfied that the payer has the capacity to pay out of currently available resources all or some portion of the amount due under the support order. In the absence of proofs to the contrary introduced by the payer, the court shall presume that the payer has currently available resources equal to 4 weeks of payments under the support order. The court shall not find that the payer has currently available resources of more than 4 weeks of payments without proof of those resources by the office of the friend of the court or the recipient of support. Upon finding a payer in contempt of court under this section, the court may immediately enter an order doing 1 of the following:

(a) Committing the payer to the county jail.

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

(c) Committing the payer to a penal or correctional facility in this state that is not operated by the state department of corrections.

(d) If the payer holds an occupational license, driver's license, or recreational or sporting license, conditioning a suspension of the payer's license, or any combination of the licenses, upon noncompliance with an order for payment of the arrearage in 1 or more scheduled installments of a sum certain. A court shall not order the sanction authorized by this subdivision unless the court finds that the payer has accrued an arrearage of support payments in an amount greater than the amount of periodic support payments payable for 6 months under the payer's support order.

(e) Ordering the payer to participate in a work activity. The court shall not enter an order using this subdivision unless the payer's arrearage is under a child support order and a child who is the subject of that order is receiving financial assistance under title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 601 to 603, 604 to 608, 609 to 619, 620 to 629e, 651 to 660, 663 to 669b, 670 to 673, 673b, 674 to 679, 679b, and 681 to 687. This subdivision does not alter the court's authority to include provisions in an order issued under this section concerning a payer's employment or his or her seeking of employment as that authority exists on the effective date of the amendatory act that added this subdivision.

(2) If the court enters an order under subsection (1)(d) and the payer fails to comply with the arrearage payment schedule, after notice and opportunity for a hearing, the court shall order suspension of the payer's license or licenses with respect to which the order under subsection (1)(d) was entered and shall proceed under section 30.

Sec. 35. (1) The court may find a payer in contempt if the court finds that the payer is in arrears and if the court is satisfied that by the exercise of diligence the payer could have the capacity to pay all or some portion of the amount due under the support order and that the payer fails or refuses to do so.

(2) Upon finding a payer in contempt of court under this section, the court may immediately enter an order doing either of the following:

(a) Committing the payer to the county jail with the privilege of leaving the jail during the hours the court determines, and under the supervision the court considers, necessary for the purpose of allowing the payer to go to and return from his or her place of employment or, if the person wishes to seek employment, to seek employment.

(b) If the payer holds an occupational license, driver's license, or recreational or sporting license, conditioning a suspension of the payer's license, or any combination of the licenses, upon noncompliance with an order for payment of the arrearage in 1 or more scheduled installments of a sum certain. A court shall not order the sanction authorized by this subdivision unless the court finds that the payer has accrued an arrearage of support payments in an amount greater than the amount of periodic support payments payable for 6 months under the payer's support order.

(c) Ordering the payer to participate in a work activity. The court shall not enter an order using this subdivision unless the payer's arrearage is under a child support order and a child who is the subject of that order is receiving financial assistance under title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 601 to 603, 604 to 608, 609 to 619, 620 to 629e, 651 to 660, 663 to 669b, 670 to 673, 673b, 674 to 679, 679b, and 681 to 687. This subdivision does not alter the court's authority to include provisions in an order issued under this section concerning a payer's employment or his or her seeking of employment as that authority exists on the effective date of the amendatory act that added this subdivision.

(3) Notwithstanding the length of commitment imposed under this section, an unemployed payer committed to a county jail under this section who finds employment shall be released from jail if either of the following applies:

(a) The payer is self-employed and has completed 2 consecutive weeks at his or her employment.

(b) The payer is employed and has completed 2 consecutive weeks at his or her employment and an order of income withholding is effective.

(4) If the court enters an order under subsection (2)(b) and the payer fails to comply with the arrearage payment schedule, after notice and an opportunity for a hearing, the court shall order suspension of the payer's license or licenses with respect to which the order under subsection (2)(b) was entered and shall proceed under section 30.

Sec. 44. (1) If the office of the friend of the court determines that application of a makeup parenting time policy under section 41(1)(a) is unsuccessful in resolving a parenting time dispute or that action should otherwise 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 with 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. The office of the friend of the court shall notify the parent who is the subject of the petition. The notice shall include at least all of the following:

(a) A list of each possible sanction if the parent is found in contempt.

(b) The right of the parent to a hearing on a proposed modification of parenting time if requested within 14 days after the date of the notice, as provided in section 45.

(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 a 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 the hours the court determines necessary, and under the supervision the court considers necessary, for the purpose of allowing the parent to go to and return from his or her place of employment.

(g) If the parent holds an occupational license, driver's license, or recreational or sporting license, condition the suspension of the license, or any combination of the licenses, upon noncompliance with an order for makeup and ongoing parenting time.

(h) State on the record the reason the court is not ordering a sanction listed in subdivisions (a) to (g).

(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. 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.

(4) If a parent fails to appear in response to an order to show cause, the court may issue a bench warrant requiring that the parent be brought before the court without unnecessary delay to show cause why the parent should not be held in contempt. Except for good cause shown on the record, the court shall further order the parent to pay the costs of the hearing, the issuance of the warrant, the arrest, and further hearings, which costs shall be transmitted to the county treasurer for distribution as provided in section 31.

Sec. 45. (1) If the court enters an order under section 44(2)(g) and the parent fails to comply with the makeup and ongoing parenting time schedule, the court shall find the parent in contempt and, after notice and an opportunity for a hearing, may order suspension of the parent's license or licenses with respect to which the order under section 44(2)(g) was entered and proceed under section 30.

(2) After entry of a suspension order under subsection (1), a parent may agree to a makeup parenting time schedule. The court may order a makeup parenting time schedule if the parent demonstrates a good faith effort to comply with the parenting time order. If the court orders a makeup parenting time schedule, the court shall enter an order rescinding the suspension order that is effective as provided in section 4 of the regulated occupation support enforcement act, 1996 PA 236, MCL 338.3434, section 321c of the Michigan vehicle code, 1949 PA 300, MCL 257.321c, or section 43559 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.43559. Within 7 business days after entry of the order rescinding the suspension order, the office of the friend of the court shall send a copy of the order rescinding the suspension order to the licensing agency.

(3) Within 14 days after the date of the notice under section 44, a parent who is notified of a petition to show cause under section 44 may request a hearing on a proposed modification of parenting time. The court shall hold the requested hearing unless the parenting time dispute is resolved by other means. The court shall combine the hearing prescribed by this subsection with the hearing on the order to show cause unless the court finds for good cause shown on the record that the hearings should be held separately. If the court finds that the hearings should be held separately, the hearing on a proposed modification of parenting time shall be held before the hearing on the order to show cause.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 800 of the 89th Legislature is enacted into law.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Mary R. Buehler

Clerk of the House of Representatives.

Approved _____

Governor.