



HOUSE BILL No. 5028

September 12, 1995, Introduced by Rep. Bullard and referred to the Committee on Judiciary and Civil Rights.

A bill to amend sections 2, 3, and 3a of Act No. 295 of the Public Acts of 1982, entitled as amended "Support and visitation enforcement act," sections 2 and 3 as amended and section 3a as added by Act No. 141 of the Public Acts of 1995, being sections 552.602, 552.603, and 552.603a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2, 3, and 3a of Act No. 295 of the
2 Public Acts of 1982, sections 2 and 3 as amended and section 3a
3 as added by Act No. 141 of the Public Acts of 1995, being sec-
4 tions 552.602, 552.603, and 552.603a of the Michigan Compiled
5 Laws, are amended to read as follows:

6 Sec. 2. As used in this act:

7 (a) "Employer" means an individual, sole proprietorship,
8 partnership, association, or private or public corporation, the

1 United States or a federal agency, this state or a political
2 subdivision of this state, another state or a political subdivi-
3 sion of another state, or another legal entity that hires and
4 pays an individual for his or her services.

5 (b) "Friend of the court act" means Act No. 294 of the
6 Public Acts of 1982, being sections 552.501 to 552.535 of the
7 Michigan Compiled Laws.

8 (c) "Income" means any of the following:

9 (i) Commissions, earnings, salaries, wages, and other income
10 due or to be due in the future from his or her employer and suc-
11 cessor employers.

12 (ii) A payment due or to be due in the future from a
13 profit-sharing plan, pension plan, insurance contract, annuity,
14 social security, unemployment compensation, supplemental unem-
15 ployment benefits, and worker's compensation.

16 (iii) An amount of money that is due to the payer under a
17 support order as a debt of another individual, partnership, asso-
18 ciation, or private or public corporation, the United States or a
19 federal agency, this state or a political subdivision of this
20 state, another state or a political subdivision of another state,
21 or another legal entity that is indebted to the payer.

22 (d) "Office of child support" means the office of child sup-
23 port established in section 2 of Act No. 174 of the Public Acts
24 of 1971, being section 400.232 of the Michigan Compiled Laws.

25 (e) "Office of the friend of the court" means the agency
26 created in section 3 of the friend of the court act, being
27 section 552.503 of the Michigan Compiled Laws.

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

4 (g) "Payer" means a person who is ordered by the circuit
5 court to pay support.

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

10 (i) "Recipient of support" means the following:

11 (i) The spouse, if the support order orders support for the
12 spouse.

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

16 (iii) The state department of social services, if support
17 has been assigned to the department.

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

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

23 (l) "Support" means all of the following:

24 (i) The payment of money for a child or a spouse ordered by
25 the circuit court, whether the order is embodied in an interim,
26 temporary, permanent, or modified order or judgment. Support may

1 include payment of the expenses of medical, dental, and other
2 health care, child care expenses, and educational expenses.

3 (ii) The payment of money ordered by the circuit court under
4 the paternity act, Act No. 205 of the Public Acts of 1956, being
5 sections 722.711 to 722.730 of the Michigan Compiled Laws, for
6 the necessary expenses incurred by or for the mother in connec-
7 tion with her confinement or of other expenses in connection with
8 the pregnancy of the mother.

9 (iii) A ~~fee~~ SURCHARGE accumulated under section 3a.

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

12 Sec. 3. (1) A support order issued by a court of this state
13 shall be enforced as provided in 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 sec-
18 tion 552.531 of the Michigan Compiled Laws, is a judgment on and
19 after 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
17 the following:

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

1 payments that are past due as provided in section 3a of the
2 support and visitation enforcement act, Mich. Comp. Laws
3 §552.603a (1979).".

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

7 Sec. 3a. (1) On January 1 and July 1 of each year, a ~~fee~~
8 SURCHARGE calculated at an 8% annual rate shall be added to sup-
9 port payments that are past due as of those dates. A ~~fee~~
10 SURCHARGE under this subsection shall not be added to support
11 ordered under the paternity act, Act No. 205 of the Public Acts
12 of 1956, being sections 722.711 to 722.730 of the Michigan
13 Compiled Laws, for the time period to the date of the support
14 order.

15 (2) Upon receiving money for payment of support, the friend
16 of the court shall apply the amount received first to current
17 support and then to any support arrearage including any ~~fees~~
18 SURCHARGES imposed under this section.

19 Section 2. This amendatory act shall take effect January 1,
20 1996, and applies to an arrearage due, or that becomes due, on
21 and after its effective date.