

HOUSE BILL No. 6016

June 9, 2004, Introduced by Rep. Brandenburg and referred to the Committee on Judiciary.

A bill to amend 1966 PA 138, entitled
"The family support act,"
by amending the title and sections 1, 1a, 1b, 2, and 4 (MCL
552.451, 552.451a, 552.451b, 552.452, and 552.454), the title and
section 2 as amended by 2002 PA 574, sections 1 and 1a as amended
by 2002 PA 8, section 1b as amended by 1990 PA 237, and section 4
as amended by 1999 PA 158.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

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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~~ **other** parents and to enter orders governing

1 ~~custody and~~ parenting time for those children; to provide for
2 the termination of the effectiveness of the support orders; and
3 to provide for the payment of fees and assessment of costs in
4 those cases.

5 Sec. 1. A married parent who has a minor child or children
6 living with him or her and who is living separate and away from
7 his or her spouse who is the ~~noncustodial~~ **other** parent of the
8 child or children, and who is refused financial assistance by the
9 ~~noncustodial~~ **other** parent to provide necessary shelter, food,
10 care, and clothing for the child or children, if the spouse is of
11 sufficient financial ability to provide that assistance, may
12 complain to the circuit court for the county where either parent
13 resides for an order for support for himself or herself and the
14 minor child or children. Subject to section 5b of the support
15 and parenting time enforcement act, 1982 PA 295, MCL 552.605b,
16 the parent may also complain to the circuit court for support for
17 a child or children after they reach 18 years of age. The
18 proceedings shall be commenced by the filing of a complaint
19 verified by the petitioner and by issuance of a summons that
20 shall be personally served upon the ~~noncustodial~~ **other** parent
21 of the children and spouse of the petitioner. A complaint shall
22 not be filed nor shall any summons issue if divorce or separate
23 maintenance proceedings are then pending between the petitioner
24 and his or her spouse.

25 Sec. 1a. A ~~custodial~~ parent, **with whom the child or**
26 **children reside**, or guardian of a minor child or children or a
27 child or children who have reached 18 years of age may proceed in

1 the same manner, and under the same circumstances as provided in
 2 section 1, against the ~~noncustodial~~ **other** parent for the
 3 support of the child or children. The order of support shall
 4 provide only for the support of the child or children, and the
 5 burden of proof shall be the same as provided in section 2. This
 6 section applies only to legitimate, legitimated, and lawfully
 7 adopted minor children and, subject to section 5b of the support
 8 and parenting time enforcement act, 1982 PA 295, MCL 552.605b,
 9 children after they reach 18 years of age.

10 Sec. 1b. The director of ~~social services~~ **the family**
 11 **independence agency** or his or her designated representative or
 12 the director of the county ~~department of social services~~ **family**
 13 **independence agency** of the county where the ~~custodial~~ parent
 14 **with whom a minor child or children reside** or minor child or
 15 children or child or children who have reached 18 years of age
 16 reside or the director's designated representative may proceed in
 17 the same manner and under the same circumstances as provided in
 18 sections 1 and 1a against the ~~noncustodial~~ **other** parent for the
 19 support of the ~~custodial~~ parent, **with whom the minor child or**
 20 **children reside**, and minor child or children or child or children
 21 who have reached 18 years of age if the ~~custodial~~ parent, **with**
 22 **whom the minor child or children reside**, and minor child or
 23 children or child or children who have reached 18 years of age or
 24 any of them are being supported, in whole or in part, by public
 25 assistance under the social welfare act, ~~Act No. 280 of the~~
 26 ~~Public Acts of 1939, as amended, being sections 400.1 to 400.121~~
 27 ~~of the Michigan Compiled Laws~~ **1939 PA 280, MCL 400.1 to**

1 **400.119b.** The burden of proof ~~shall be~~ is the same as provided
2 in section 2.

3 Sec. 2. (1) Upon the hearing of the complaint, in the
4 manner of a motion, the court may enter an order as it determines
5 proper for the support of the petitioner and the minor child or
6 children of the parties as prescribed in section 5 of the support
7 and parenting time enforcement act, 1982 PA 295, MCL 552.605.

8 The order shall provide that payment shall be made to the friend
9 of the court or the state disbursement unit. If the parent
10 complained of opposes the entry of the order upon the ground that
11 he or she is without sufficient financial ability to provide
12 necessary shelter, food, care, clothing, and other support for
13 his or her spouse and child or children, the burden of proving
14 this lack of ability is on the parent against whom the complaint
15 is made. The order shall state in separate paragraphs the amount
16 of support for the petitioner until the further order of the
17 court, and the amount of support for each child until each child
18 reaches 18 years of age or until the further order of the court.
19 Subject to section 5b of the support and parenting time
20 enforcement act, 1982 PA 295, MCL 552.605b, the court may also
21 order support for the child after the child reaches 18 years of
22 age, or until the further order of the court.

23 (2) A support order entered under this section is enforceable
24 as provided in the support and parenting time enforcement act,
25 1982 PA 295, MCL 552.601 to 552.650. If this act contains a
26 specific provision regarding the contents or enforcement of a
27 child support order that conflicts with a provision in the

1 support and parenting time enforcement act, 1982 PA 295, MCL
2 552.601 to 552.650, this act controls in regard to that
3 provision.

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

20 Sec. 4. (1) If the county family independence agency where
21 the ~~custodial~~ parent, **with whom the child or children reside**,
22 or guardian of the minor child or children or the child or
23 children who have reached 18 years of age resides determines the
24 ~~custodial~~ parent, the minor child or children, the child or
25 children who have reached 18 years of age, or any of them to be
26 eligible for public or medical assistance, or if a complaint is
27 being filed under section 1b, the prosecuting attorney shall act

1 as the attorney for the petitioner.

2 (2) The prosecuting attorney shall utilize the child support
3 formula developed under section 19 of the friend of the court
4 act, 1982 PA 294, MCL 552.519, as a guideline in petitioning for
5 child support. Upon certification by the family independence
6 agency that the ~~custodial~~ parent, **with whom the minor child or**
7 **children reside**, and minor child or children or child or children
8 who have reached 18 years of age are receiving public assistance,
9 a payment received by the friend of the court or the state
10 disbursement unit for the support of the ~~custodial~~ parent and
11 minor child or children or child or children who have reached 18
12 years of age shall be transmitted to the family independence
13 agency.

14 Enacting section 1. This amendatory act takes effect
15 January 1, 2005.

16 Enacting section 2. This amendatory act does not take
17 effect unless Senate Bill No. ____ or House Bill No. 5949
18 (request no. 03652'03) of the 92nd Legislature is enacted into
19 law.