

Act No. 193
Public Acts of 2009
Approved by the Governor
December 28, 2009
Filed with the Secretary of State
December 28, 2009
EFFECTIVE DATE: December 28, 2009

**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2009**

Introduced by Senators Jansen and Hardiman

ENROLLED SENATE BILL No. 100

AN ACT to amend 1982 PA 295, entitled "An act to provide for and to supplement statutes that provide for the provisions and enforcement of support, health care, and parenting time orders with respect to divorce, separate maintenance, paternity, child custody and support, and spousal support; to prescribe and authorize 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, 3a, 5b, 5c, 5d, 5e, 7, 8, 9, 11a, 19, 24, 25a, 26b, 28, 29, 30, 31, 33, 35, 39, 44, 45, 46, and 48 (MCL 552.602, 552.603, 552.603a, 552.605b, 552.605c, 552.605d, 552.605e, 552.607, 552.608, 552.609, 552.611a, 552.619, 552.624, 552.625a, 552.626b, 552.628, 552.629, 552.630, 552.631, 552.633, 552.635, 552.639, 552.644, 552.645, 552.646, and 552.648), sections 2 and 3a as amended by 2004 PA 208, sections 3, 19, and 24 as amended by 2002 PA 572, section 5b as added and section 26b as amended by 2001 PA 106, section 5c as added and section 28 as amended by 2002 PA 565, section 5d as added by 2002 PA 570, section 5e as added by 2004 PA 211, sections 7, 33, and 35 as amended by 2004 PA 206, section 8 as amended by 1995 PA 236, sections 9, 11a, and 48 as amended by 1999 PA 160, section 25a as amended by 2004 PA 484, sections 29 and 30 as amended by 1998 PA 334, section 31 as amended by 2004 PA 569, and sections 44 and 45 as amended by 2002 PA 568.

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.

(v) A pension or retirement plan.

(vi) An insurance policy.

(c) "Cash" means money or the equivalent of money, such as a money order, cashier's check, or negotiable check or a payment by debit or credit card, which equivalent is accepted as cash by the agency accepting the payment.

(d) "Custody or parenting time order violation" means an individual's act or failure to act that interferes with a parent's right to interact with his or her child in the time, place, and manner established in the order that governs custody or parenting time between the parent and the child and to which the individual accused of interfering is subject.

(e) "Department" means the department of human services.

(f) "Domestic relations matter" means a circuit court proceeding as to child custody, parenting time, child support, or spousal support, that arises out of litigation under a statute of this state, including, but not limited to, the following:

(i) 1846 RS 84, MCL 552.1 to 552.45.

(ii) The family support act, 1966 PA 138, MCL 552.451 to 552.459.

(iii) The child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31.

(iv) 1968 PA 293, MCL 722.1 to 722.6.

(v) The paternity act, 1956 PA 205, MCL 722.711 to 722.730.

(vi) The revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.

(vii) The uniform interstate family support act, 1996 PA 310, MCL 552.1101 to 552.1901.

(g) "Driver's license" means license as that term is defined in section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25.

(h) "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.

(i) "Financial asset" means a deposit, account, money market fund, stock, bond, or similar instrument.

(j) "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.

(k) "Friend of the court act" means the friend of the court act, 1982 PA 294, MCL 552.501 to 552.535.

(l) "Friend of the court case" means that term as defined in section 2 of the friend of the court act, MCL 552.502.

(m) "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 or a successor employer.

(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.

(n) "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.

(o) "Medical assistance" means medical assistance as established under title XIX of the social security act, 42 USC 1396 to 1396v.

(p) "Most recent semiannual obligation" means the total amount of current child support owed by a parent during the preceding January 1 to June 30 or July 1 to December 31.

(q) "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.

(r) "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.

(s) "Office of the friend of the court" means an agency created in section 3 of the friend of the court act, MCL 552.503.

(t) "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.

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

(v) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(w) "Plan administrator" means that term as used in relation to a group health plan under section 609 of title I of the employee retirement income security act of 1974, 29 USC 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.

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

(y) "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 department, if support has been assigned to that department.

(iv) The county, if the minor child is in county-funded foster care.

(z) "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.

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

(bb) "Source of income" means an employer or successor employer, a labor organization, or another individual or entity that owes or will owe income to the payer.

(cc) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(dd) "State friend of the court bureau" means that bureau as created in the state court administrative office under section 19 of the friend of the court act, MCL 552.519.

(ee) "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 connected to the mother's pregnancy or the birth of the child, or for the repayment of genetic testing expenses.

(iii) A surcharge under section 3a.

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

(gg) "Title IV-D" means part D of title IV of the social security act, 42 USC 651 to 669b.

(hh) "Title IV-D agency" means the agency in this state performing the functions under title IV-D and includes a person performing those functions under contract, including an office of the friend of the court or a prosecuting attorney.

(ii) "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) Referral to and participation in the work first program prescribed in the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, or other job search and job readiness assistance.

(vii) A community service program.

(viii) Vocational educational training, not to exceed 12 months with respect to an 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 provision 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 act.

(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 is a judgment on and after the date the support amount is due as prescribed in section 5c, 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. No additional action is necessary to reduce support to a final judgment. Retroactive modification of a support payment due under a support order is permissible with respect to a 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 5 of the friend of the court act, MCL 552.505.

(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 or another 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 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 may be added to support amounts 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 under the payer's support order for the time period specified in this act.

(c) Notice that an order for dependent health care coverage takes effect immediately and that, in a friend of the court case, a national medical support notice will be sent to the parent's current and subsequent employers and insurers if appropriate. The notice shall inform the parent that he or she may contest the action by requesting a review or hearing concerning availability of health care coverage at a reasonable cost.

(7) A support order that is an order in a friend of the court case shall require each party to provide all of the following information to the friend of the court in writing:

(a) A single mailing address for the party, to which all notices and papers in the case will be served.

(b) The party's residential address.

(c) The party's telephone number.

(d) A statement of whether the payer or payee holds an occupational license, driver's license, or recreational license.

(e) The names, addresses, and telephone numbers of the payer's and payee's current sources of income.

(f) The payer's and payee's social security numbers and driver's license numbers. The requirement of this subdivision to provide a social security number 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.

(8) A support order that is an order in a friend of the court case shall include a requirement that if any of the information provided to the friend of the court under subsection (7) changes, each party shall notify the friend of the court of the new information within 21 days after the change and that a failure to provide the new information may subject the party to imposition of a fee under subsection (12). A notice of new information under this subsection shall be in writing or by any other method allowed under guidelines established by the state court administrative office under the supervision and direction of the supreme court.

(9) Except as provided in sections 11 and 25a, service of notices or other papers under this act and under the friend of the court act shall be made by first-class mail, postage prepaid. If mail is returned as undeliverable from that address, the friend of the court may change the address pursuant to guidelines established by the state court administrative office or the supreme court.

(10) Unless federal law or regulation requires otherwise, if mail served under subsection (9) is returned from an address and a new address has not been established within 21 days after the mail is returned, the party waives his or her right to notice and the friend of the court is not obligated to serve any notice or other paper until the party submits a written change of address to the friend of the court or until the friend of the court has changed the address pursuant to subsection (9).

(11) A support order shall not accrue interest.

(12) If a person fails to comply with the requirements of this section, the court may impose a fee set pursuant to a policy established by the state court administrative office under the supervision and direction of the supreme court. A fee ordered under this subdivision shall be deposited in the friend of the court fund created in section 2530 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2530.

(13) In a proceeding to enforce support, a report, record, or information from the Michigan child support enforcement system or the support disbursement unit that relates to paid or unpaid support is prima facie authentic and may be admitted into evidence without extrinsic evidence of authenticity.

Sec. 3a. (1) Subject to subsection (6), for a friend of the court case, if the court determines that the payer has failed to pay support under a support order and the failure was willful, the court may order that on January 1 and July 1 of each year, a surcharge be added to support payments that are past due as of those dates. The surcharge shall be calculated at 6-month intervals at an annual rate of interest equal to 1% plus the average interest rate paid at auctions of 5-year United States treasury notes during the 6 months immediately preceding July 1 and January 1, as certified by the state treasurer. The amount of the surcharge shall not compound. The amount shown as due and owing on the records of the friend of the court as of January 1 and July 1 of each year shall be reduced by an amount equal to 1 month's support for purposes of assessing the surcharge. Except as provided in subsection (5), a surcharge ordered by the court applies until abated by the court.

(2) A surcharge ordered under subsection (1) shall be assessed on a semiannual cycle on January 1 and July 1 of each year except as otherwise provided under subsection (3).

(3) A surcharge shall not be assessed for the current semiannual cycle in any of the following circumstances:

(a) Beginning on July 1, 2005, in a case in which the friend of the court is collecting on a current child support obligation and the payer has paid 90% or more of the most recent semiannual obligation during the semiannual cycle.

(b) In a case in which a support order is entered after July 14, 2004, for any period of time a support order did not exist if support is later ordered for that period.

(c) If the surcharge is waived or abated under a court order under section 3d.

(4) A surcharge added under this section shall be collected and enforced by any means authorized under this act, the friend of the court act, or another appropriate federal or state law for the enforcement and collection of child support and paid through the state disbursement unit.

(5) A surcharge ordered under this section in an order entered before the effective date of the amendatory act that added this subsection is terminated on the effective date of the amendatory act that added this subsection. Another surcharge shall not be ordered in the action unless the surcharge is ordered by the court under subsection (1).

(6) After the effective date of the amendatory act that added this subsection, a court shall not order that a surcharge under subsection (1) be added before January 1, 2011.

Sec. 5b. (1) A court that orders child support may order support for a child after the child reaches 18 years of age as provided in this section.

(2) The court may order child support for the time a child is regularly attending high school on a full-time basis with a reasonable expectation of completing sufficient credits to graduate from high school while residing on a full-time basis with the recipient of support or at an institution, but in no case after the child reaches 19 years and 6 months of age. A complaint or motion requesting support as provided in this section may be filed at any time before the child reaches 19 years and 6 months of age.

(3) A support order entered under this section shall include a provision that the support terminates on the last day of a specified month, regardless of the actual graduation date.

(4) A provision contained in a judgment or an order entered before October 10, 1990 that provides for the support of a child after the child reaches 18 years of age, without an agreement of the parties as described in subsection (5), is valid and enforceable to the extent the provision provides support for the child for the time the child is regularly attending high school on a full-time basis with a reasonable expectation of completing sufficient credits to graduate from high school while residing on a full-time basis with the recipient of support or at an institution, but in no case after the child reaches 19 years and 6 months of age. This subsection does not require payment of support for a child after the child reaches 18 years of age for any period between November 8, 1989 and October 10, 1990, or reimbursement of support paid between November 8, 1989 and October 10, 1990, in those judicial circuits that did not enforce support for a child after the child reached 18 years of age during the period between November 8, 1989 and October 10, 1990.

(5) A provision contained in a judgment or an order entered under this act before, on, or after September 30, 2001 that provides for the support of a child after the child reaches 18 years of age is valid and enforceable if 1 or more of the following apply:

(a) The provision is contained in the judgment or order by agreement of the parties as stated in the judgment or order.

(b) The provision is contained in the judgment or order by agreement of the parties as evidenced by the approval of the substance of the judgment or order by the parties or their attorneys.

(c) The provision is contained in the judgment or order by written agreement signed by the parties.

(d) The provision is contained in the judgment or order by oral agreement of the parties as stated on the record by the parties or their attorneys.

Sec. 5c. (1) All support orders shall be stated in monthly amounts payable on the first of each month in advance. A support obligation not paid by the last day of the month in which it accrues is past due. If a support order does not state the amount of support as a monthly amount, the support amount stated in the order shall be converted to a monthly amount using the formula established by the state court administrative office.

(2) If payments under a support order are being made in the amount required, through income withholding, pursuant to an installment payment order, or otherwise, and there are no preexisting arrearages, the friend of the court shall not consider the payer as having an arrearage if a periodic temporary arrearage is created by the conversion of the monthly support order to an income withholding order or other payment schedule or results from a divergence between the cycle of payments under the income withholding or payment schedule and the cycle of charges.

(3) If a support order takes effect on other than the first day of a month, the monthly amount is prorated based on the daily amount for that month. A monthly support order amount shall not be prorated for the last month in which the order is in effect.

(4) If the title IV-D agency receives a support payment that, at the time of its receipt, exceeds a payer's support amount payable plus an amount payable under an arrearage payment schedule, the title IV-D agency shall apply the excess against the payer's total arrearage accrued under all support orders under which the payer is obligated. If a balance remains after application against the total arrearage, the title IV-D agency shall do 1 of the following:

(a) If the payer designates the balance as additional support, immediately disburse that amount to the recipient of support.

(b) If, at the time the payment is received, the payer is obligated under a support order for a future support payment and the balance is less than or equal to the monthly support order amount, retain the balance and disburse it to the recipient of support immediately when the amount is payable as support.

(c) If, at the time the payment is received, the payer is not obligated for a future support payment, or the payer is obligated under a support order for a future support payment but the balance is greater than the monthly support order amount, return the balance to the payer.

(5) After 1 year after the date the amendatory act that added this subsection is enacted into law, if a payer has paid money that has not been disbursed to the payee and the payer is entitled to a refund of all or a portion of the money because support has been abated in whole or in part, the refund shall be applied first to any support past due in the case and then to any past due support the payer owes in another case. Any balance after the application of the money to support arrearages shall be refunded to the payer.

Sec. 5d. (1) On and after June 1, 2003, each support order the court enters or modifies shall include substantially the following provisions:

(a) If a child for whom support is payable under the order is under the state's jurisdiction and is placed in foster care, that support payable under the order is assigned to the department.

(b) If a child for whom support is payable under the order is under court jurisdiction and is placed in county-funded foster care, that support payable under the order is assigned to the funding county.

(c) For a friend of the court case, substantially the following statements:

(i) "The office of the friend of the court may consider the person legally responsible for the actual care, support, and maintenance of a child for whom support is ordered as the recipient of support for the child and may redirect support paid for that child to that recipient of support, subject to the procedures prescribed in section 5d of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605d."

(ii) "If the payer resides full-time with a child for whom support is payable under this order, support for that child abates in accordance with policies established by the state friend of the court bureau and subject to the procedures prescribed in section 5d of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605d."

(2) In a friend of the court case, a support order that was entered before June 1, 2003 shall be considered to include, by operation of law, the provisions stated in subsection (1).

(3) If a child for whom support is payable under a support order is under the state's jurisdiction and is placed in foster care, support payable under the order is assigned to the department. If the child is placed in county-funded foster care, the support payable under the order is assigned to the funding county. An assignment of support to the department as required by this subsection has priority over a redirection of support authorized by this section.

(4) Subject to subsection (5), for a friend of the court case, the office of the friend of the court may consider the person legally responsible for the actual care, support, and maintenance of a child for whom support is ordered as the recipient of support for the child and may redirect support paid for that child to that recipient of support. Subject to subsection (5), the office of the friend of the court shall abate support under a support order that is payable as support for a child who resides full-time with the payer, in accordance with policies established by the state friend of the court bureau.

(5) A party to a support order may object to redirection or abatement of support under this section. Support shall not be redirected or abated under this section until 21 days after the office of the friend of the court notifies each party of the proposed action, advising the party of the right to object. If a party objects within 21 days after the notification, support shall not be redirected or abated under this section. After an objection, the office of the friend of the court shall review the support order under section 17 of the friend of the court act, MCL 522.517, or shall notify each party that the party may file a motion to modify support.

(6) The state friend of the court bureau may implement policies to assist offices of the friend of the court in determining when an office of the friend of the court should give notice of a proposed redirection or abatement of support under this section.

Sec. 5e. (1) A payer who has an arrearage under a support order may file a motion with the circuit court for a payment plan to pay arrearages and to discharge or abate arrearages. Except as provided in subsection (7)(d), if the payer files a motion for a payment plan, the court shall approve the plan after notice and a hearing if it finds by a preponderance of the evidence that the plan is in the best interest of the parties and children and that either of the following applies:

(a) The arrearage is owed to an individual payee and both of the following:

(i) The payee has consented to entry of the order under circumstances that satisfy the court that the payee is not acting under fear, coercion, or duress.

(ii) The payer establishes that the arrearage did not arise from conduct by the payer engaged in exclusively for the purpose of avoiding a support obligation.

(b) The arrearage is owed to this state or a political subdivision of this state, and the payer establishes the following:

(i) The arrearage did not arise from conduct by the payer engaged in exclusively for the purpose of avoiding a support obligation.

(ii) The payer has no present ability, and will not have an ability in the foreseeable future, to pay the arrearage absent a payment plan.

(iii) The payment plan will pay a reasonable portion of the arrearage over a reasonable period of time in accordance with the payer's current ability to pay.

(iv) The office of child support or its designee has been served with a copy of the motion at least 56 days before the hearing.

(2) When the payer has completed a plan approved under subsection (1), the payer shall provide notice to interested parties and obtain a hearing before the court. If, after notice and hearing, the court finds that the payer has completed the payment plan, the court shall enter an order discharging the remaining arrearage, if any. If the court finds that the payer has substantially completed the payment plan, the court may enter an order granting relief appropriate to the circumstances of the case.

(3) A payment plan may provide for discharge of any portion of an arrearage that meets the requirements under subsection (2), even if other portions of the arrearage do not meet those requirements.

(4) A payment plan under subsection (1) shall provide that arrearages subject to the payment plan may be reinstated upon motion and hearing for good cause shown at any time during the pendency of the payment plan. Good cause includes, but is not limited to, the payee becoming a recipient of public assistance, or the payer receiving property sufficient to pay a substantial portion of the amount discharged, including, but not limited to, lottery proceeds, other winnings, a settlement under an insurance policy or a judgment in a civil action, or an inheritance.

(5) A court shall require conditions in a payment plan approved under subsection (1) in addition to the payment of support that the court determines are in the best interests of a child, including, but not limited to, any of the following:

(a) A payer's participation in a parenting program.

(b) Drug and alcohol counseling.

(c) Anger management classes or participation in a batterer intervention program that meets the standards recommended by the governor's task force on batterer intervention standards.

(d) Participation in a work program.

(e) Counseling.

(f) Continuing compliance with a current support order.

(6) This section does not modify the right of a party to receive other child support credits to which the payer is entitled nor prevent the court from correcting a support order under other applicable law or court rule.

(7) In making its findings under subsection (1), the court shall consider any written comments submitted before the hearing by the office of child support or its designee. When written comments have not been submitted, the court may do any of the following:

(a) Adjourn the hearing to seek written comments before making its decision.

(b) Appoint an examiner who shall review the payer's assets and the plan and make a recommendation concerning the plan or propose an alternative plan to the court. The examiner shall be paid by the payer for services provided under terms and conditions the court establishes separately from any payments made through the friend of the court or state disbursement unit.

(c) Appoint a receiver who shall review the payer's assets and the plan and make a recommendation concerning the plan or propose an alternative plan to the court. A receiver appointed under this subdivision has the powers of a receiver under all applicable laws and may, at the court's discretion, use the payer's assets to complete the plan or otherwise monitor the payer's progress in completing the plan. The receiver shall be paid by the payer for services provided under terms and conditions the court establishes separately from any payments made through the friend of the court or state disbursement unit.

(d) Approve the plan as presented, but only if the payer satisfies the requirements of subsection (1) by clear and convincing evidence.

(e) Deny the plan as presented if the court finds that the payer has not satisfied the requirements of subsection (1).

(8) If the court approves a plan under subsection (1)(b), that approval shall be considered the state's consent to a compromise of the arrearage.

(9) An arrearage subject to a plan under subsection (1) shall continue to be enforced under this act, the office of child support act, 1971 PA 174, MCL 400.231 to 400.240, and the friend of the court act, if federal or state law requires the enforcement action. If federal or state law does not require the enforcement action, an arrearage subject to a plan under subsection (1) may continue to be enforced as allowed under this act, the office of child support act, 1971 PA 174, MCL 400.231 to 400.240, and the friend of the court act, except that when the payer is complying with the plan, a referee, judge, or person conducting an administrative review or hearing as allowed under the acts shall not allow enforcement to continue when the statute permits the exercise of discretion in using the enforcement and the payer is complying with the plan.

(10) A person who knowingly provides false information on a motion filed under subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not more than \$1,000.00, or both.

Sec. 7. (1) For a friend of the court case, if income withholding is not immediately effective and the arrearage under a support order reaches the arrearage amount that requires the initiation of 1 or more support enforcement measures as provided in section 11 of the friend of the court act, MCL 552.511, or, if the amount of income withholding is administratively adjusted for arrears under section 17e of the friend of the court act, MCL 552.517e, 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) One or both of the following:
 - (i) That the payer's income is subject to income withholding and the amount to be withheld.
 - (ii) That the payer's income withholding is being administratively adjusted and the amount of the adjustment.
- (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 under subsection (3) in writing within 21 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, and if the notice includes an administrative adjustment of arrears, that the administrative adjustment will cause an unjust or inappropriate result.
- (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) The place where a request for hearing under subsection (3) shall be filed.
- (h) 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 payer to whom notice is sent under subsection (1), within 21 days after the date on which the notice was sent, may request a hearing by filing a request for hearing as provided in the notice and serving a copy on the other party. A hearing concerning implementation of income withholding that was not previously effective may be requested 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.

(3) If a payer requests a hearing under subsection (2), the notice and request shall be filed with the court clerk as a motion contesting the proposed action and a referee or circuit judge shall hold a hearing 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, or that periodic implementation of an administrative adjustment of the amount of the periodic payment of arrears to be withheld will cause an unjust or inappropriate result, the income withholding shall be modified or rescinded according to the guidelines established under section 19 of the friend of the court act, MCL 552.519.

(4) If the hearing provided under subsection (3) is held before a referee, either party may request a de novo hearing as provided in section 7 of the friend of the court act, MCL 552.507.

(5) 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 (3), the court may consolidate the hearing under subsection (3) and a hearing on the petition for modification.

(6) 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.

(7) The friend of the court office may review the objection administratively before a hearing is held before a referee or judge. If the friend of the court office reviews the objection administratively, either party may object and a hearing shall be held before a referee or judge.

Sec. 8. The total amount of income withheld under this act under all orders to withhold income for current support, past due support, fees, and health care coverage premiums effective against a payer shall not exceed 50% of the payer's disposable earnings as that term is defined in 15 USC 1672.

Sec. 9. (1) A notice of income withholding entered under this act shall be served on sources of income as provided in section 11. A labor organization that assigns a member to work shall forward a copy of an income withholding notice served on the labor organization to the actual employer.

(2) A notice served under this section shall do all of the following:

(a) Direct sources of income to withhold from income due the payer an amount sufficient to meet the payments ordered for support, service fees, fines, costs, and sanctions and to defray arrearages in payments and service fees due at the time the order of income withholding takes effect.

(b) Direct that the amount withheld for support, fees, health care coverage premiums, fines, costs, and sanctions as ordered under the friend of the court act or this act shall not exceed, before 90 days after the effective date of the amendatory act that added subsection (3), the amount allowed under section 303(b) of title III of the consumer credit protection act, 15 USC 1673, or, on or after 90 days after the effective date of the amendatory act that added subsection (3), 50% of the payer's disposable earnings as that term is defined in 15 USC 1672.

(c) Contain a statement of the requirements of sections 11, 11a, 12, 13, 14, and 23.

(d) Direct that income withheld under the notice be paid to the office of the friend of the court or to the state disbursement unit, as appropriate, within 3 days after the date of the withholding.

(3) A person that serves a notice of income withholding under this section shall send separate notices for income withholding for support, fees, fines, costs, and sanctions ordered to be paid under title IV-D and support, fees, fines, costs, and sanctions not ordered to be paid under title IV-D.

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 50% of the payer's disposable income as that term is defined in 15 USC 1672. The source of income shall comply with the notices as follows:

(a) If all orders to withhold income are from this state and the total amount designated in the notices to withhold income for current and past due support exceeds 50% of the payer's disposable earnings, the source of income shall withhold an amount equal to 50% of the payer's disposable earnings.

(b) If 1 or more of the orders to withhold income are from another state, the source of income shall give priority to amounts designated in each notice as current support, as follows:

(i) If the total of the amounts designated in the notices as current support exceeds 50% of the payer's disposable earnings, 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.

(ii) If the total of the amounts designated in the notices as current support does not exceed 50% of the payer's disposable earnings, 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 50% of the payer's disposable earnings, 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 an 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).

(3) A source of income shall identify each withholding by payer, payer's social security number, case numbers, 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 also provide its federal employer identification number. A source of income may meet the requirements of this subsection through the use of an automated reporting system established by the SDU.

(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. 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 pregnancy or birth expenses, the court shall terminate the order of income withholding as soon as any previously accumulated arrearage has been paid.

(2) The office of the friend of 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 for a period of 60 days or more, and the friend of the court case is being closed.

(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) For a friend of the court case, 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 under subsection (2)(d) if either of the following circumstances exists:

(a) There is a support arrearage.

(b) 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 under subsection (2)(d), the order of income withholding shall take effect when an arrearage in support payments as agreed to under the written agreement reaches the arrearage amount that would require the initiation of 1 or more support enforcement measures if the case were a friend of the court case, as provided in section 11 of the friend of the court act, MCL 552.511.

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

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

Sec. 24. For a friend of the court case, if the case has not been designated for offset proceedings by the office of child support and a support arrearage has accrued that meets the requirements established by state or federal law, regulation, or rule, as applicable, the office of the friend of the court may request the office of child support to initiate offset proceedings against the delinquent payer's state tax refunds and federal income tax refunds as provided in section 3a of the office of child support act, 1971 PA 174, MCL 400.233a.

Sec. 25a. (1) The amount of past due support that accrues under a judgment as provided in 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, including, but not limited to, money to be paid as a distribution from a decedent's estate; as the result of a claim for negligence, personal injury, or death; under an arbitration award; under a settlement of or judgment issued in a civil action; or as compensation under a worker's compensation order, settlement, redemption order, or voluntary payment. The lien is effective at the time that the support is due and unpaid and continues until the amount of past due support is paid in full or the lien is terminated by the title IV-D agency.

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

(3) A lien created under subsection (1) is subordinate to a prior perfected lien. All liens that arise under subsection (1) and described in subsection (2) have equal priority.

(4) A lien shall not be perfected or levied under this act unless the title IV-D agency has provided a notice to the payer that liens exist 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 periodic support payments payable under the payer's support order for the time specified in this act. Notice has been provided if it is in the payer's support order or if it was mailed to the payer at any time.

(5) The title IV-D agency or another person required to provide notice under this section or sections 25b to 25i shall provide notice by paper, unless the person to be notified agrees to notice by other means. The title IV-D agency or other person providing notice under this section or sections 25b to 25i shall complete and preserve proof of service of the notice in a form that substantially conforms to the requirements for proof of service under the Michigan court rules.

(6) A lien under subsection (1) does not arise against any of the following:

(a) A financial asset pledged to a financial institution as collateral.

(b) A financial asset to which a financial institution has a prior right of setoff or other lien.

(c) Property or an allowance described in part 4 of article II of the estates and protected individuals code, 1998 PA 386, MCL 700.2401 to 700.2404.

(d) Fifty percent of the amount of compensation due to a payer under a worker's compensation order, settlement, redemption order, or voluntary payment.

(e) That portion of money to be paid as a distribution from a decedent's estate; as the result of a claim for negligence, personal injury, or death; under an arbitration award; under a settlement of or judgment issued in a civil action; or as compensation under a worker's compensation order, settlement, redemption order, or voluntary payment that is owed for any of the following:

(i) Attorney fees.

(ii) Court costs and other litigation costs, including, but not limited to, medical examination costs, expenses for reports, deposition fees, court reporter fees, and record copy fees.

(iii) The medicaid program under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, unless medicaid is subordinated to child support under federal law.

(iv) Medical services or a reimbursement for a payment made for medical services either to or by an insurer, health maintenance organization, or nonprofit health care corporation. For the purposes of compensation under a worker's compensation order, settlement, redemption order, or voluntary payment, as used in this subparagraph, "medical services" means services as described and regulated under sections 315 and 319 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.315 and 418.319, and the rules promulgated under those sections.

(v) An amount to reimburse an insurance company for the expense incurred by the insurance company in responding to a lien and levy under sections 25b to 25i. A reimbursement amount under this subparagraph shall not exceed the actual expense or \$50.00, whichever is less, for each lien and levy or for each payment under a lien and levy.

(vi) Other costs related to the arbitration, civil action, or worker's compensation order, settlement, redemption order, or voluntary payment.

(vii) For reimbursements to which an employer or carrier is entitled under section 827 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.827.

(viii) For vocational rehabilitation costs, reimbursements, or credits incidental to long- or short-term disability programs or to pension or welfare benefit funds.

(ix) For a medicare set aside account for future medical care or for future medicaid, unless medicare or medicaid is subordinated to child support under federal law.

(f) Money to be paid under an insurance policy for the repair or replacement of real or tangible personal property.

(g) Money to be paid for allowable expenses that are payable as benefits under section 3107(1)(a) or (c) of the insurance code of 1956, 1956 PA 218, MCL 500.3107.

(7) The title IV-D agency does not have the authority to alter an amount itemized in a redemption order. A lien that arises under this act and a levy of that lien only affect that portion, as prescribed in this section, of the payment due the payer under a redemption order. A carrier shall not use the enforcement of a lien and levy under this act as the basis for freezing or otherwise refusing to pay out an amount itemized in a redemption order that is not affected by the lien and levy under this act.

(8) As used in this section and sections 25b to 25i:

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

(i) "Carrier" as that term is defined in section 601 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.601.

(ii) A fund created under section 501 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.501.

(iii) The property and casualty guaranty association required to be maintained by section 7911 of the insurance code of 1956, 1956 PA 218, MCL 500.7911.

(b) "Insurer" means that term as defined in section 106 of the insurance code of 1956, 1956 PA 218, MCL 500.106.

Sec. 26b. (1) An order or notice for dependent health care coverage entered under this act shall include the information required in a qualified medical child support order as specified in 29 USC 1169, if the health care coverage plan of the individual who is responsible for providing a child with health care coverage is subject to the employee retirement income security act of 1974, Public Law 93-406, and shall comply with standards of the national medical support notice as required to meet federal law and regulations.

(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 50% of the employee's disposable earnings as that term is defined in 15 USC 1672.

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

Sec. 28. (1) For a friend of the court case, a payer's occupational license, driver's license, or recreational or sporting license, or any combination of the licenses, may be suspended 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 2 months under the payer's support order.

(b) 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) Before seeking the suspension of a license described in subsection (1), an office of the friend of the court shall send 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 suspension.

(c) That a suspension order or notice will be 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, if a hearing is requested, the payer may do either of the following at the hearing:

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

(ii) Ask the court to order 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 a 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, a suspension order shall not be entered and a suspension notice shall not be sent 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, after a hearing under this section, 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, as reasonable, in 1 or more scheduled installments of a sum certain.

(4) After 21 days after the date on which a notice described in section 28 is sent, the friend of the court shall notify the secretary of state if the payer has failed to request or attend a hearing on the proposed suspension or pay the arrearage in full. On receiving the notice from the friend of the court, the secretary of state shall suspend the payer's driver's license as provided in section 321c of the Michigan vehicle code, 1949 PA 300, MCL 257.321c.

(5) The court may order the suspension of the payer's occupational 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 court determines after a hearing that the payer has failed to comply with an arrearage payment schedule ordered under this section.

(6) If a court determines that a payer has failed to comply with an arrearage payment schedule ordered under this section, the court may direct the friend of the court to notify the secretary of state of the failure. On receiving the notice from the friend of the court, the secretary of state shall suspend the payer's driver's license as provided in section 321c of the Michigan vehicle code, 1949 PA 300, MCL 257.321c.

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, or sooner if required by the act that authorizes the licensing agency to suspend the license. The office of the friend of the court shall send a copy of the suspension order to the licensing agency.

(2) After a suspension order is entered or after a suspension under section 29, a payer may agree to and the court may order a reasonable schedule for the payment of the arrearage. If the court orders a schedule for payment of the arrearage, the court or the friend of the court, as applicable, shall do the following:

(a) 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, 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.

(b) The friend of the court, on verification by the clerk of the court that the driver's license clearance fee required by section 321c of the Michigan vehicle code, 1949 PA 300, MCL 257.321c, has been paid, shall provide a certificate to the payer stating that the payer is in compliance with the support order.

Sec. 31. (1) If a person is ordered to pay support under a support order and fails or refuses to obey and perform the order, and if an order of income withholding is inapplicable or unsuccessful, a recipient of support or the office of the friend of the court may commence a civil contempt proceeding by filing in the circuit court a petition for an order to show cause why the delinquent payer should not be held in contempt. If the payer fails to appear in response to an order to show cause, the court shall do 1 or more of the following:

(a) Find the payer in contempt for failure to appear.

(b) Find the payer in contempt for the reasons stated in the motion for the show cause hearing.

(c) Apply an enforcement remedy authorized under this act or the friend of the court act for the nonpayment of support, including suspending the payer's occupational license, driver's license, or recreational or sporting license.

(d) Issue a bench warrant for the payer's arrest requiring that the payer be brought before the court without unnecessary delay for further proceedings in connection with the show cause or contempt proceedings.

(e) Adjourn the hearing.

(f) Dismiss the order to show cause if the court determines that the payer is not in contempt.

(g) Enter an order that a law enforcement agency render any vehicle owned by the payer temporarily inoperable, by booting or another similar method, subject to release on deposit of an appropriate bond.

(h) Place the payer under the supervision of the office for a term fixed by the court with reasonable conditions, including 1 or more of the following:

(i) Participating in a parenting program.

(ii) Participating in drug or alcohol counseling.

(iii) Participating in a work program.

(iv) Seeking employment.

(v) Participating in other counseling.

(vi) Continuing compliance with a current support or parenting time order.

(vii) Entering into and compliance with an arrearage payment plan.

(2) In a bench warrant issued under this section, the court shall decree that the payer is subject to arrest if apprehended or detained anywhere in this state and shall require that, upon arrest, unless the payer deposits a cash performance bond in the manner required by section 32, the payer shall remain in custody until the time of the hearing. The court shall specify in the bench warrant the cash performance bond amount. The court shall set the cash performance bond at not less than \$500.00 or 25% of the arrearage, whichever is greater. At its own discretion, the court may set the

cash performance bond at an amount up to 100% of the arrearage and add to the amount of the required deposit the amount of the costs the court may require under subsection (3). If a payer is arrested on a felony warrant issued for a violation of section 165 of the Michigan penal code, 1931 PA 328, MCL 750.165, unless the payer deposits a cash performance bond in the manner required by section 32, the court shall require that, upon arrest, the payer remain in custody until the time of the preliminary examination. Upon notification that a payer who has an outstanding bench warrant under this section has been arrested or arraigned on a felony warrant for a violation of section 165 of the Michigan penal code, 1931 PA 328, MCL 750.165, the court may order that the bench warrant be recalled.

(3) If the court issues a bench warrant under this section, except for good cause shown on the record, the court shall order the payer to pay the costs related to the hearing, the issuance of the warrant, the arrest, and any later hearings. Those costs and costs ordered for failure to appear under section 32 or 44 shall be transmitted to the county treasurer for distribution as required in section 2530 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2530.

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 that does 1 or more of the following:

(a) Commits the payer to the county jail or an alternative to jail.

(b) Commits the payer to the county jail or an alternative to jail with the privilege of leaving the jail or other place of detention 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) Commits 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, conditions 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 2 months under the payer's support order.

(e) Orders the payer to participate in a work activity. 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 August 10, 1998.

(f) If available within the court's jurisdiction, orders the payer to participate in a community corrections program established as provided in the community corrections act, 1988 PA 511, MCL 791.401 to 791.414.

(g) Except as provided by federal law and regulations, orders the parent to pay a fine of not more than \$100.00. A fine ordered under this subdivision shall be deposited in the friend of the court fund created in section 2530 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2530.

(h) Places the payer under the supervision of the office for a term fixed by the court with reasonable conditions, including 1 or more of the following:

(i) Participating in a parenting program.

(ii) Participating in drug or alcohol counseling.

(iii) Participating in a work program.

(iv) Seeking employment.

(v) Participating in other counseling.

(vi) Continuing compliance with a current support or parenting time order.

(vii) Entering into and compliance with an arrearage payment plan.

(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 1 of the following applies:

(a) 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.

(b) The payer has failed to obtain a source of income and has failed to participate in a work activity after referral by the friend of the court.

(2) Upon finding a payer in contempt of court under this section, the court shall, absent good cause to the contrary, immediately order the payer to participate in a work activity and may also do 1 or more of the following:

(a) Commit the payer to the county jail or an alternative to jail with the privilege of leaving the jail or other place of detention during the hours the court determines, and under the supervision the court considers, necessary for the purpose of allowing the payer to participate in a work activity.

(b) If the payer holds an occupational license, driver's license, or recreational or sporting license, condition a suspension of the payer's license, or a 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 2 months under the payer's support order.

(c) If available within the court's jurisdiction, order the payer to participate in a community corrections program established as provided in the community corrections act, 1988 PA 511, MCL 791.401 to 791.414.

(d) Except as provided by federal law and regulations, order the parent to pay a fine of not more than \$100.00. A fine ordered under this subdivision shall be deposited in the friend of the court fund created in section 2530 of the revised judiciary act of 1961, 1961 PA 236, MCL 600.2530.

(e) Place the payer under the supervision of the office for a term fixed by the court with reasonable conditions, including 1 or more of the following:

- (i) Participating in a parenting program.
- (ii) Participating in drug or alcohol counseling.
- (iii) Participating in a work program.
- (iv) Seeking employment.
- (v) Participating in other counseling.
- (vi) Continuing compliance with a current support or parenting time order.
- (vii) Entering into and compliance with an arrearage payment plan.

(3) Notwithstanding the length of commitment imposed under this section, the court may release a payer who is unemployed if committed to a county jail under this section and who finds employment if either of the following applies:

(a) The payer is self-employed, completes 2 consecutive weeks at his or her employment, and makes a support payment as required by the court.

(b) The payer is employed and completes 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. 39. (1) If a payer is committed to jail or an alternative to jail under section 33(1)(b) or 35(2)(a) and violates the conditions prescribed by the court, the court shall commit the payer to the county jail without the privilege provided under section 33(1)(b) or 35(2)(a) for the balance of the period of the commitment imposed by the court.

(2) If a payer is committed to jail or an alternative to jail under section 33(1)(b) or 35(2)(a) and fails to return to the place of confinement within the time prescribed, the payer shall be considered to have escaped from custody and shall be guilty of a misdemeanor, punishable by imprisonment for not more than 1 year.

Sec. 44. (1) If the office of the friend of the court determines that a procedure for resolving a parenting time dispute authorized under section 41 other than a civil contempt proceeding is unsuccessful in resolving the parenting time dispute, the office of the friend of the court shall commence a civil contempt proceeding to resolve the dispute 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 21 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 without good cause, 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 wrongfully denied 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 or an alternative to jail.

(f) Commit the parent to the county jail or an alternative to jail with the privilege of leaving the jail or other place of detention 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) If available within the court's jurisdiction, order the parent to participate in a community corrections program established as provided in the community corrections act, 1988 PA 511, MCL 791.401 to 791.414.

(i) Place the parent under the supervision of the office for a term fixed by the court with reasonable conditions, including 1 or more of the following:

(i) Participating in a parenting program.

(ii) Participating in drug or alcohol counseling.

(iii) Participating in a work program.

(iv) Seeking employment.

(v) Participating in other counseling.

(vi) Continuing compliance with a current support or parenting time order.

(vii) Entering into and compliance with an arrearage payment plan.

(viii) Facilitating makeup parenting time.

(3) The court shall state on the record the reason the court is not ordering a sanction listed in subsection (2). For the purpose of subsection (2), "good cause" includes, but is not limited to, consideration of the safety of a child or party who is governed by the parenting time order.

(4) 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.

(5) 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 any later hearings, which costs shall be transmitted to the county treasurer for distribution as provided in section 31. If the hearing cannot be held immediately after the parent's arrest, the parent may be released if a bond in the amount of the fines, costs, and sanctions imposed under this section and any additional amount the court determines is necessary to secure the parent's appearance is deposited with the court.

(6) If the court finds that a party to a parenting time dispute has acted in bad faith, the court shall order the party to pay a sanction of not more than \$250.00 for the first time the party is found to have acted in bad faith, not more than \$500.00 for the second time, and not more than \$1,000.00 for the third or a subsequent time. A sanction ordered under this subsection shall be deposited in the friend of the court fund created in section 2530 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2530, and shall be used to fund services that are not title IV-D services.

(7) A fine ordered under subsection (2), costs ordered under subsection (5), or a sanction ordered under subsection (6) is a judgment at the time the order is entered.

(8) If the court finds that a party to a parenting time dispute has acted in bad faith, the court shall order the party to pay the other party's costs.

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 suspend 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 or the friend of the court, as applicable, shall do the following:

(a) 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, 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.

(b) The friend of the court, on verification by the clerk of the court that the driver's license clearance fee required by section 321c of the Michigan vehicle code, 1949 PA 300, MCL 257.321c, has been paid, shall provide a certificate to the payer stating that the payer is in compliance with the support order.

(3) Within 21 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.

Sec. 46. (1) If a custodial parent is committed to jail or an alternative to jail under section 44(2)(f) and violates the conditions ordered by the court, the court shall commit the person to the county jail without the privilege provided under section 44(2)(f) for the balance of the period of commitment imposed by the court.

(2) If a custodial parent is committed to jail or an alternative to jail under section 44(2)(f) and fails to return to the place of confinement within the time prescribed, the custodial parent shall be considered to have escaped from custody and is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year.

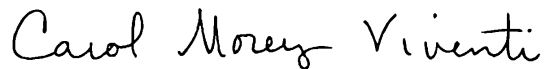
Sec. 48. The state disbursement unit is responsible for the centralized receipt and disbursement of support. An office of the friend of the court may continue to receive support and fees.

Enacting section 1. Section 3a of the support and parenting time enforcement act, 1982 PA 295, MCL 552.603a, as amended by this amendatory act, takes effect December 31, 2009.

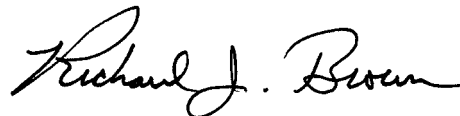
Enacting section 2. Sections 8, 11a, and 26b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.608, 552.611a, and 552.626b, as amended by this amendatory act, take effect 90 days after the date this amendatory act is enacted into law.

Enacting section 3. This amendatory act does not take effect unless Senate Bill No. 102 or House Bill No. 5503 of the 95th Legislature is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor

Compiler's note: House Bill No. 5503, referred to in enacting section 3, was filed with the Secretary of State December 28, 2009, and became 2009 PA 194, Imd. Eff. Dec. 28, 2009.