

SENATE BILL No. 100

January 28, 2009, Introduced by Senators JANSEN and HARDIMAN and referred to the Committee on Families and Human Services.

A bill to amend 1982 PA 295, entitled
"Support and parenting time enforcement act,"
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:

1 Sec. 2. As used in this act:

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

3 (i) A demand deposit account.

4 (ii) A draft account.

5 (iii) A checking account.

6 (iv) A negotiable order of withdrawal account.

7 (v) A share account.

8 (vi) A savings account.

9 (vii) A time savings account.

10 (viii) A mutual fund account.

11 (ix) A securities brokerage account.

12 (x) A money market account.

13 (xi) A retail investment account.

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

15 (i) A trust.

16 (ii) An annuity.

17 (iii) A qualified individual retirement account.

18 (iv) An account covered by the employee retirement income
19 security act of 1974, Public Law 93-406. ~~78 Stat. 829.~~

20 (v) A pension or retirement plan.

21 (vi) An insurance policy.

22 ~~(c) "Address" means the primary address shown on the records~~
23 ~~of a financial institution used by the financial institution to~~

1 ~~contact the account holder.~~

2 (C) ~~(d)~~-"Cash" means money or the equivalent of money, such as
3 a money order, cashier's check, or negotiable check or a payment by
4 debit or credit card, which equivalent is accepted as cash by the
5 agency accepting the payment.

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

12 (E) ~~(f)~~-"Department" means the ~~family independence agency~~
13 **DEPARTMENT OF HUMAN SERVICES.**

14 (F) ~~(g)~~-"Domestic relations matter" means a circuit court
15 proceeding as to child custody, ~~or~~ parenting time, ~~or~~ child
16 **SUPPORT**, or spousal support, that arises out of litigation under a
17 statute of this state, including, but not limited to, the
18 following:

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

20 (ii) The family support act, 1966 PA 138, MCL 552.451 to
21 552.459.

22 (iii) ~~Child~~ **THE CHILD** custody act of 1970, 1970 PA 91, MCL
23 722.21 to 722.31.

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

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

26 (vi) ~~Revised~~ **THE REVISED** uniform reciprocal enforcement of
27 support act, 1952 PA 8, MCL 780.151 to 780.183.

(vii) ~~Uniform~~ **THE UNIFORM** interstate family support act, 1996
PA 310, MCL 552.1101 to 552.1901.

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

(J) ~~(k)~~—"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

1 commission that collects funds from the public.

2 (viii) An entity that is a member of the national association of
3 securities dealers and that collects funds from the public.

4 (ix) Another entity that collects funds from the public.

5 **(K)** ~~(I)~~ "Friend of the court act" means the friend of the court
6 act, 1982 PA 294, MCL 552.501 to 552.535.

7 **(I)** ~~(m)~~ "Friend of the court case" means that term as defined
8 in section 2 of the friend of the court act, MCL 552.502. ~~The term~~
9 ~~"friend of the court case", when used in a provision of this act,~~
10 ~~is not effective until on and after December 1, 2002.~~

11 **(M)** ~~(n)~~ "Income" means any of the following:

12 (i) Commissions, earnings, salaries, wages, and other income
13 due or to be due in the future to an individual from his or her
14 employer ~~and OR A successor employers~~ **EMPLOYER**.

15 (ii) A payment due or to be due in the future to an individual
16 from a profit-sharing plan, a pension plan, an insurance contract,
17 an annuity, social security, unemployment compensation,
18 supplemental unemployment benefits, or worker's compensation.

19 (iii) An amount of money that is due to an individual as a debt
20 of another individual, partnership, association, or private or
21 public corporation, the United States or a federal agency, this
22 state or a political subdivision of this state, another state or a
23 political subdivision of another state, or another legal entity
24 that is indebted to the individual.

25 **(N)** ~~(o)~~ "Insurer" means an insurer, health maintenance
26 organization, health care corporation, or other group, plan, or
27 entity that provides health care coverage in accordance with any of

1 the following acts:

2 (i) ~~Public~~**THE PUBLIC** health code, 1978 PA 368, MCL 333.1101 to
3 333.25211.

4 (ii) The insurance code of 1956, 1956 PA 218, MCL 500.100 to
5 500.8302.

6 (iii) The nonprofit health care corporation reform act, 1980 PA
7 350, MCL 550.1101 to 550.1704.

8 (O) ~~(p)~~"Medical assistance" means medical assistance as
9 established under title XIX of the social security act, ~~chapter~~
10 ~~531, 49 Stat. 620, 42 USC 1396 to 1396r-6 and 1396r-8 to 1396v.~~

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

14 (Q) ~~(r)~~"Occupational license" means a certificate,
15 registration, or license issued by a state department, bureau, or
16 agency that has regulatory authority over an individual that allows
17 an individual to legally engage in a regulated occupation or that
18 allows the individual to use a specific title in the practice of an
19 occupation, profession, or vocation.

20 (R) ~~(s)~~"Office of child support" means the office of child
21 support established in section 2 of the office of child support
22 act, 1971 PA 174, MCL 400.232.

23 (S) ~~(t)~~"Office of the friend of the court" means an agency
24 created in section 3 of the friend of the court act, MCL 552.503.

25 (T) ~~(u)~~"Order of income withholding" means an order entered
26 by the circuit court providing for the withholding of a payer's
27 income to enforce a support order under this act.

Senate Bill No. 100 as amended February 5, 2009

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

(V) ~~(w)~~—"Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(W) ~~(x)~~ "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, ~~Public Law 93-406,~~ 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) ~~(y)~~ "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) ~~(z)~~ "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) ~~(aa)~~ "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,

Senate Bill No. 100 as amended February 5, 2009

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

(BB) ~~(ee)~~—"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) ~~(dd)~~—"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) ~~(ee)~~—"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) ~~(ff)~~—"Support" means all of the following:

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

(ii) The payment of money ordered by the circuit court under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the necessary expenses ~~incurred by or for the mother in connection with her confinement, for other expenses in connection with the~~ **CONNECTED TO THE MOTHER'S** pregnancy ~~of the mother~~ **OR THE BIRTH OF THE CHILD**, or for the repayment of genetic testing expenses.

(iii) A surcharge under section 3a.

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

(GG) ~~(hh)~~ "Title IV-D" means part D of title IV of the social security act, ~~chapter 531, 49 Stat. 620, 42 USC 651 to 655, 656 to 657, 658a to 660, and 663 to 669b.~~

(HH) ~~(ii)~~ "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) ~~(jj)~~ "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) ~~Community~~ **A COMMUNITY** service programs ~~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

1 an individual who has not received a high school diploma or a
2 certificate of high school equivalency.

3 (xi) Satisfactory attendance at secondary school or in a course
4 of study leading to a certificate of general equivalence, in the
5 case of an individual who has not completed secondary school or
6 received such a certificate.

7 (xii) The ~~provisions~~ **PROVISION** of child care services to an
8 individual who is participating in a community service program.

9 Sec. 3. (1) A support order issued by a court of this state
10 shall be enforced as provided in this act.

11 (2) Except as otherwise provided in this section, a support
12 order that is part of a judgment or is an order in a domestic
13 relations matter is a judgment on and after the date the support
14 amount is due as prescribed in section 5c, with the full force,
15 effect, and attributes of a judgment of this state, and is not, on
16 and after the date it is due, subject to retroactive modification.

17 **NO ADDITIONAL ACTION IS NECESSARY TO REDUCE SUPPORT TO A FINAL**
18 **JUDGMENT.** Retroactive modification of a support payment due under a
19 support order is permissible with respect to a period during which
20 there is pending a petition for modification, but only from the
21 date that notice of the petition was given to the payer or
22 recipient of support.

23 (3) This section does not apply to an ex parte interim support
24 order or a temporary support order entered under supreme court
25 rule.

26 (4) The office of the friend of the court shall make available
27 to a payer or payee the forms and instructions described in section

1 5 of the friend of the court act, MCL 552.505.

2 (5) This section does not prohibit a court approved agreement
3 between the parties to retroactively modify a support order. This
4 section does not limit other enforcement remedies available under
5 this or another act.

6 (6) Every support order that is part of a judgment issued by a
7 court of this state or that is an order in a domestic relations
8 matter shall include all of the following:

9 (a) Substantially the following statement: "Except as
10 otherwise provided in section 3 of the support and parenting time
11 enforcement act, 1982 PA 295, MCL 552.603, a support order that is
12 part of a judgment or that is an order in a domestic relations
13 matter as defined in section 2 of the friend of the court act, 1982
14 PA 294, MCL 552.502, is a judgment on and after the date each
15 support payment is due, with the full force, effect, and attributes
16 of a judgment of this state, and is not, on and after the date it
17 is due, subject to retroactive modification. A surcharge ~~will~~**MAY**
18 be added to support amounts that are past due as provided in
19 section 3a of the support and parenting time enforcement act, 1982
20 PA 295, MCL 552.603a."

21 (b) Notice informing the payer of the imposition of liens by
22 operation of law and that the payer's real and personal property
23 can be encumbered or seized if an arrearage accrues in an amount
24 greater than the amount of periodic support payments payable under
25 the payer's support order for the time period specified in ~~the~~
26 ~~support and parenting time enforcement act, 1982 PA 295, MCL~~
27 ~~552.601 to 552.650~~ **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) ~~Each~~ A support order that is an order in a friend of the court case shall ~~include~~ **REQUIRE EACH PARTY TO PROVIDE** all of the following **INFORMATION TO THE FRIEND OF THE COURT IN WRITING:**

(a) ~~A requirement that, within 21 days after the payer or payee changes his or her residential or mailing address, that individual report the new address and his or her telephone number in writing to the friend of the court.~~ **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) ~~(b) A requirement that both~~ **STATEMENT OF WHETHER** the payer and ~~OR payee notify the office of the friend of the court if he or she holds an occupational license, and if he or she holds a driver's license,~~ **OR RECREATIONAL LICENSE.**

(E) ~~(c) The name, address, and telephone number~~ **NAMES, ADDRESSES, AND TELEPHONE NUMBERS** of the payer's and payee's current sources of income.

(F) ~~(d) A requirement that both the payer and payee inform the office of the friend of the court of his or her~~ **THE PAYER'S AND**

1 **PAYEE'S** social security ~~number~~ **NUMBERS** and driver's license ~~number~~
2 **NUMBERS**. The requirement of this subdivision to provide a social
3 security number ~~with the information~~ does not apply to a payer or
4 payee who demonstrates he or she is exempt under law from obtaining
5 a social security number or to a payer or payee who for religious
6 convictions is exempt under law from disclosure of his or her
7 social security number under these circumstances. The court shall
8 inform the payer and payee of this possible exemption.

9 ~~—— (c) Notice that an order for dependent health care coverage~~
10 ~~takes effect immediately and will be sent to the parent's current~~
11 ~~and subsequent employers and insurers if appropriate. The notice~~
12 ~~shall inform the parent that he or she may contest the action by~~
13 ~~requesting a review or hearing concerning availability of health~~
14 ~~care coverage at a reasonable cost.~~

15 (8) A SUPPORT ORDER THAT IS AN ORDER IN A FRIEND OF THE COURT
16 CASE SHALL INCLUDE A REQUIREMENT THAT IF ANY OF THE INFORMATION
17 PROVIDED TO THE FRIEND OF THE COURT UNDER SUBSECTION (7) CHANGES,
18 EACH PARTY SHALL NOTIFY THE FRIEND OF THE COURT OF THE NEW
19 INFORMATION WITHIN 21 DAYS AFTER THE CHANGE. A NOTICE UNDER THIS
20 SUBSECTION SHALL BE IN WRITING OR BY ANY OTHER METHOD ALLOWED UNDER
21 GUIDELINES ESTABLISHED BY THE STATE COURT ADMINISTRATIVE OFFICE
22 UNDER THE SUPERVISION AND DIRECTION OF THE SUPREME COURT.

23 (9) EXCEPT AS PROVIDED IN SECTIONS 11 AND 25A, SERVICE OF
24 NOTICES OR OTHER PAPERS UNDER THIS ACT AND UNDER THE FRIEND OF THE
25 COURT ACT SHALL BE MADE BY FIRST-CLASS MAIL, POSTAGE PREPAID. IF
26 MAIL IS RETURNED AS UNDELIVERABLE FROM THAT ADDRESS, THE FRIEND OF
27 THE COURT MAY CHANGE THE ADDRESS PURSUANT TO GUIDELINES ESTABLISHED

1 BY THE STATE COURT ADMINISTRATIVE OFFICE OR THE SUPREME COURT.

2 (10) UNLESS FEDERAL LAW OR REGULATION REQUIRES OTHERWISE, IF
3 MAIL SERVED UNDER SUBSECTION (9) IS RETURNED FROM AN ADDRESS AND A
4 NEW ADDRESS HAS NOT BEEN ESTABLISHED WITHIN 21 DAYS AFTER THE MAIL
5 IS RETURNED, THE PARTY WAIVES HIS OR HER RIGHT TO NOTICE AND THE
6 FRIEND OF THE COURT IS NOT OBLIGATED TO SERVE ANY NOTICE OR OTHER
7 PAPER UNTIL THE PARTY SUBMITS A WRITTEN CHANGE OF ADDRESS TO THE
8 FRIEND OF THE COURT OR UNTIL THE FRIEND OF THE COURT HAS CHANGED
9 THE ADDRESS PURSUANT TO SUBSECTION (9).

10 (11) ~~(8)~~ A support order shall not accrue interest.

11 (12) IF A PERSON FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS
12 SECTION, THE COURT MAY IMPOSE A FEE SET PURSUANT TO A POLICY
13 ESTABLISHED BY THE STATE COURT ADMINISTRATIVE OFFICE UNDER THE
14 SUPERVISION AND DIRECTION OF THE SUPREME COURT. A FEE ORDERED UNDER
15 THIS SUBDIVISION SHALL BE DEPOSITED IN THE FRIEND OF THE COURT FUND
16 CREATED IN SECTION 2530 OF THE REVISED JUDICATURE ACT OF 1961, 1961
17 PA 236, MCL 600.2530.

18 (13) IN A PROCEEDING TO ENFORCE SUPPORT, A REPORT, RECORD, OR
19 INFORMATION FROM THE MICHIGAN CHILD SUPPORT ENFORCEMENT SYSTEM OR
20 THE SUPPORT DISBURSEMENT UNIT THAT RELATES TO PAID OR UNPAID
21 SUPPORT IS PRIMA FACIE AUTHENTIC AND MAY BE ADMITTED INTO EVIDENCE
22 WITHOUT EXTRINSIC EVIDENCE OF AUTHENTICITY.

23 Sec. 3a. (1) For a friend of the court case, ~~as of~~ IF THE
24 COURT DETERMINES THAT THE PAYER HAS FAILED TO PAY SUPPORT UNDER A
25 SUPPORT ORDER AND THE FAILURE WAS WILLFUL, THE COURT MAY ORDER THAT
26 ON January 1 and July 1 of each year, a surcharge ~~shall be~~ added to
27 support payments that are past due as of those dates. The surcharge

1 shall be calculated at 6-month intervals at an annual rate of
 2 interest equal to 1% plus the average interest rate paid at
 3 auctions of 5-year United States treasury notes during the 6 months
 4 immediately preceding July 1 and January 1, as certified by the
 5 state treasurer. The amount of the surcharge shall not compound.
 6 The amount shown as due and owing on the records of the friend of
 7 the court as of January 1 and July 1 of each year shall be reduced
 8 by an amount equal to 1 month's support for purposes of assessing
 9 the surcharge. ~~A surcharge under this subsection shall not be added~~
 10 ~~to support ordered under the paternity act, 1956 PA 205, MCL~~
 11 ~~722.711 to 722.730, for the time period to the date of the support~~
 12 ~~order.~~ **EXCEPT AS PROVIDED IN SUBSECTION (5), A SURCHARGE ORDERED BY**
 13 **THE COURT APPLIES UNTIL ABATED BY THE COURT.**

14 (2) A surcharge ~~as computed in~~ **ORDERED UNDER** subsection (1)
 15 shall be assessed on a semiannual cycle on January 1 and July 1 of
 16 each year except as otherwise provided under subsection (3).

17 (3) A surcharge shall not be assessed for the current
 18 semiannual cycle ~~for~~ **IN** any of the following **CIRCUMSTANCES**:

19 (a) Beginning on July 1, 2005, in ~~cases~~ **A CASE** in which the
 20 friend of the court is collecting on a current child support
 21 obligation ~~,~~ **AND** the payer has paid 90% or more of the most recent
 22 semiannual obligation during the semiannual cycle.

23 (b) ~~For~~ **IN A CASE IN WHICH** a support order **IS** entered after
 24 ~~the effective date of the amendatory act that added this subsection~~
 25 **JULY 14, 2004**, for any period of time a support order did not exist
 26 ~~when~~ **IF** support is later ordered for that period.

27 (c) ~~The~~ **IF THE** surcharge is waived or abated under a court

1 order under section 3d.

2 (4) ~~The~~**A** surcharge **ADDED UNDER THIS SECTION** shall be
3 collected and enforced by any means authorized under this act, the
4 friend of the court act, or another appropriate federal or state
5 law for the enforcement and collection of child support and paid
6 through the state disbursement unit.

7 **(5) A SURCHARGE ORDERED UNDER THIS SECTION IN AN ORDER ENTERED**
8 **BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS**
9 **SUBSECTION IS TERMINATED ON THE EFFECTIVE DATE OF THE AMENDATORY**
10 **ACT THAT ADDED THIS SUBSECTION. ANOTHER SURCHARGE SHALL NOT BE**
11 **ORDERED IN THE ACTION UNLESS THE SURCHARGE IS ORDERED BY THE COURT**
12 **UNDER SUBSECTION (1).**

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

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

24 **(3) A SUPPORT ORDER ENTERED UNDER THIS SECTION SHALL INCLUDE A**
25 **PROVISION THAT THE SUPPORT TERMINATES ON THE LAST DAY OF A**
26 **SPECIFIED MONTH, REGARDLESS OF THE ACTUAL GRADUATION DATE.**

27 (4) ~~(3)~~A provision contained in a judgment or an order

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

17 (5) ~~(4)~~ A provision contained in a judgment or an order
18 entered under this act before, on, or after ~~the effective date of~~
19 ~~this section~~ **SEPTEMBER 30, 2001** that provides for the support of a
20 child after the child reaches 18 years of age is valid and
21 enforceable if 1 or more of the following apply:

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

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

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

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

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

13 (2) If payments under a support order are being made in the
14 amount required, through income withholding, pursuant to an
15 installment payment order, or otherwise, and there are no
16 preexisting arrearages, the friend of the court shall not consider
17 the payer as having an arrearage if a periodic temporary arrearage
18 is created ~~based upon~~ **BY** the conversion of the monthly support
19 order to an income withholding order or other payment schedule ~~and~~
20 ~~which~~ **OR** results from a divergence between the cycle of payments
21 under the income withholding or payment schedule and the cycle of
22 charges.

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

27 (4) If the title IV-D agency receives a support payment that,

Senate Bill No. 100 as amended February 5, 2009

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

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

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

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

20 (5) AFTER <<1 YEAR AFTER THE DATE THE AMENDATORY ACT THAT ADDED
21 THIS SUBSECTION IS ENACTED INTO LAW>>, IF A PAYER HAS PAID MONEY THAT
22 HAS NOT BEEN DISBURSED TO THE PAYEE AND THE PAYER IS ENTITLED TO A
23 REFUND OF ALL OR A PORTION OF THE MONEY BECAUSE SUPPORT HAS BEEN
24 ABATED IN WHOLE OR IN PART, THE REFUND SHALL BE APPLIED FIRST TO
25 ANY SUPPORT PAST DUE IN THE CASE AND THEN TO ANY PAST DUE SUPPORT
26 THE PAYER OWES IN ANOTHER CASE. ANY BALANCE AFTER THE APPLICATION
27 OF THE MONEY TO SUPPORT ARREARAGES SHALL BE REFUNDED TO THE PAYER.

Sec. 5d. (1) On and after ~~the effective date of the amendatory~~

1 ~~act that added this section~~ **JUNE 1, 2003**, each support order the
2 court enters or modifies shall include substantially the following
3 provisions:

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

7 **(B) IF A CHILD FOR WHOM SUPPORT IS PAYABLE UNDER THE ORDER IS**
8 **UNDER COURT JURISDICTION AND IS PLACED IN COUNTY-FUNDED FOSTER**
9 **CARE, THAT SUPPORT PAYABLE UNDER THE ORDER IS ASSIGNED TO THE**
10 **FUNDING COUNTY.**

11 **(C)** ~~(b)~~ For a friend of the court case, substantially the
12 following statements:

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

20 (ii) "If the payer resides full-time with a child for whom
21 support is payable under this order, support for that child abates
22 in accordance with policies established by the state friend of the
23 court bureau and subject to the procedures prescribed in section 5d
24 of the support and parenting time enforcement act, 1982 PA 295, MCL
25 552.605d.".

26 (2) ~~If it is~~ **IN** a friend of the court case, a support order
27 that was entered before ~~the effective date of the amendatory act~~

1 ~~that added this section~~ **JUNE 1, 2003** shall be considered to
2 include, by operation of law, the provisions stated in subsection
3 (1).

4 (3) If a child for whom support is payable under ~~the~~ **A SUPPORT**
5 order is under the state's jurisdiction and is placed in foster
6 care, support payable under the order is assigned to the
7 department. **IF THE CHILD IS PLACED IN COUNTY-FUNDED FOSTER CARE,**
8 **THE SUPPORT PAYABLE UNDER THE ORDER IS ASSIGNED TO THE FUNDING**
9 **COUNTY.** An assignment of support to the department as required by
10 this subsection has priority over a redirection of support
11 authorized by this section.

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

22 (5) A party to a support order may object to redirection or
23 abatement of support under this section. Support shall not be
24 redirected or abated under this section until 21 days after the
25 office of the friend of the court notifies each party of the
26 proposed action, advising the party of the right to object. If a
27 party objects within 21 days after the notification, support shall

1 not be redirected or abated under this section. After an objection,
2 the office of the friend of the court shall review the support
3 order under section 17 of the friend of the court act, ~~1982 PA 294,~~
4 MCL 522.517, or shall notify each party that the party may file a
5 motion to modify support.

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

11 Sec. 5e. (1) A payer who has an arrearage under a support
12 order may ~~seek relief from the arrearage by complying with the~~
13 ~~amnesty under section 3b of the office of child support act, 1971~~
14 ~~PA 174, MCL 400.233b, or by filing~~ **FILE** a motion with the circuit
15 court for a payment plan to pay arrearages and to discharge or
16 abate arrearages. Except as provided in subsection (7)(d), if the
17 payer files a motion for a payment plan, the court shall approve
18 the plan after notice and a hearing if it finds by a preponderance
19 of the evidence that the plan is in the best interest of the
20 parties and children and that either of the following applies:

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

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

26 (ii) The payer establishes that the arrearage did not arise
27 from conduct by the payer engaged in exclusively for the purpose of

1 avoiding a support obligation.

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

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

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

10 (iii) The payment plan will pay a reasonable portion of the
11 arrearage over a reasonable period of time in accordance with the
12 payer's current ability to pay. ~~A payment plan that does not pay~~
13 ~~the entire arrearage shall.~~

14 ~~—— (A) As to a payer who has an income at or below the poverty~~
15 ~~level, require payments for at least 24 months.~~

16 ~~—— (B) As to a payer who has an income in excess of the poverty~~
17 ~~level, require payments for at least 24 months plus 1 additional~~
18 ~~month for each \$1,000.00 above the poverty level that the payer~~
19 ~~earns.~~

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

23 (2) When the payer has completed ~~the A plan~~ **APPROVED UNDER**
24 **SUBSECTION (1)**, the payer shall provide notice to interested
25 parties and obtain a hearing before the court. If, after notice and
26 hearing, the court finds that the payer has completed the payment
27 plan, the court shall enter an order discharging the remaining

1 arrearage, if any. If the court finds that the payer has
2 substantially completed the payment plan, the court may enter an
3 order granting relief appropriate to the circumstances of the case.

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

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

16 (5) A court shall require conditions in ~~the~~ **A** payment plan
17 **APPROVED UNDER SUBSECTION (1)** in addition to the payment of support
18 that the court determines are in the best interests of a child,
19 including, but not limited to, any of the following:

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

21 (b) Drug and alcohol counseling.

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

25 (d) Participation in a work program.

26 (e) Counseling.

27 (f) Continuing compliance with a current support order.

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

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

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

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

17 (c) Appoint a receiver who shall review the payer's assets and
18 the plan and make a recommendation concerning the plan or propose
19 an alternative plan to the court. ~~The A receiver shall have~~
20 **APPOINTED UNDER THIS SUBDIVISION HAS** the powers of a receiver under
21 all applicable laws and may, at the court's discretion, use the
22 payer's assets to complete the plan or otherwise monitor the
23 payer's progress in completing the plan. The receiver shall be paid
24 by the payer for services provided under terms and conditions the
25 court establishes separately from any payments made through the
26 friend of the court or state disbursement unit.

27 (d) Approve the plan as presented, but only if the payer

1 satisfies the requirements of subsection (1) by clear and
2 convincing evidence.

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

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

8 (9) An arrearage subject to a plan under subsection (1) shall
9 continue to be enforced under this act, the office of child support
10 act, 1971 PA 174, MCL 400.231 TO 400.240, and the friend of the
11 court act, ~~when~~ IF federal or state law requires the enforcement
12 action. ~~When~~ IF federal or state law does not require the
13 enforcement action, an arrearage subject to a plan under subsection
14 (1) may continue to be enforced as allowed under this act, the
15 office of child support act, 1971 PA 174, MCL 400.231 TO 400.240,
16 and the friend of the court act, except that when the payer is
17 complying with the plan, a referee, judge, or person conducting an
18 administrative review or hearing as allowed under the acts shall
19 not allow enforcement to continue when the statute permits the
20 exercise of discretion in using the enforcement and the payer is
21 complying with the plan.

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

26 ~~—— (11) A title IV-D agency shall comply with the amnesty program~~
27 ~~established under section 3b of the office of child support act,~~

~~1971 PA 174, MCL 400.233b. If prosecution has been initiated under section 161, 165, or 167 of the Michigan penal code, 1931 PA 328, MCL 750.161, 750.165, and 750.167, before the payer seeks participation in the child support amnesty program or a payment plan under this section, the individual is not eligible to participate in the child support amnesty program or a payment plan under this section.~~

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.

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

4 (e) That the payer may request a hearing under subsection ~~(4)~~
5 (3) in writing within 21 days after the date of the notice to
6 contest the withholding, but only on the grounds that the
7 withholding is not proper because of a mistake of fact concerning
8 the amount of current or overdue support or the identity of the
9 payer, and if the notice includes an administrative adjustment of
10 arrears, that the administrative adjustment will cause an unjust or
11 inappropriate result.

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

14 (G) The place where a request for hearing under subsection ~~(4)~~
15 (3) shall be filed.

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

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

22 (2) ~~(3)~~ A payer to whom notice is sent under subsection (1),
23 within 21 days after the date on which the notice was sent, may
24 request a hearing by filing a request for hearing as provided in
25 the notice and serving a copy on the other party. A hearing
26 concerning implementation of income withholding that was not
27 previously effective may be requested only on the grounds that the

1 withholding is not proper because of a mistake of fact concerning
2 the amount of current or overdue support or the identity of the
3 payer.

4 (3) ~~(4)~~—If a payer requests a hearing under subsection ~~(3)~~
5 (2), the notice and request shall be filed with the court clerk as
6 a motion contesting the proposed action and a referee or circuit
7 judge shall hold a hearing within 14 days after the date of the
8 request. If at the hearing the payer establishes that the
9 withholding is not proper because of a mistake of fact concerning
10 the amount of current or overdue support or the identity of the
11 payer, or that periodic implementation of an administrative
12 adjustment of the amount of the periodic payment of arrears to be
13 withheld will cause an unjust or inappropriate result, the income
14 withholding shall be modified or rescinded according to the
15 guidelines established under section 19 of the friend of the court
16 act, MCL 552.519.

17 (4) ~~(5)~~—If the hearing provided under subsection ~~(4)~~—(3) is
18 held before a referee, either party may request a de novo hearing
19 as provided in section 7 of the friend of the court act, MCL
20 552.507.

21 (5) ~~(6)~~—If a petition for modification of the support order is
22 filed by or on behalf of a payer and is pending at the date
23 scheduled for a hearing under subsection ~~(4)~~—(3), the court may
24 consolidate the hearing under subsection ~~(4)~~—(3) and a hearing on
25 the petition for modification.

26 (6) ~~(7)~~—All proceedings under this section shall be completed
27 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) ~~(8)~~—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 ~~the maximum amount permitted under section 303(b) of title III of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1673~~ **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. ~~The~~ **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 ~~direct~~ **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, ~~and~~ 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. ~~The notice shall also direct~~

Senate Bill No. 100 as amended February 5, 2009

(B) **DIRECT** that the amount withheld for support, fees, and 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, ~~Public Law 90-321, 15 U.S.C. 1673~~ **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.** ~~The notice shall contain~~

(C) **CONTAIN** a statement of the requirements of sections 11, 11a, 12, 13, 14, and 23. ~~The notice shall also direct~~

(D) **DIRECT** that income withheld under the notice ~~for support and fees shall 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 ~~the limits imposed under section 303(b) of title III of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1673,~~ **giving 50% OF THE PAYER'S DISPOSABLE INCOME AS THAT TERM IS DEFINED**

1 IN 15 USC 1672. THE SOURCE OF INCOME SHALL COMPLY WITH THE NOTICES
2 AS FOLLOWS:

3 (A) IF ALL ORDERS TO WITHHOLD INCOME ARE FROM THIS STATE AND
4 THE TOTAL AMOUNT DESIGNATED IN THE NOTICES TO WITHHOLD INCOME FOR
5 CURRENT AND PAST DUE SUPPORT EXCEEDS 50% OF THE PAYER'S DISPOSABLE
6 EARNINGS, THE SOURCE OF INCOME SHALL WITHHOLD AN AMOUNT EQUAL TO
7 50% OF THE PAYER'S DISPOSABLE EARNINGS.

8 (B) IF 1 OR MORE OF THE ORDERS TO WITHHOLD INCOME ARE FROM
9 ANOTHER STATE, THE SOURCE OF INCOME SHALL GIVE priority to amounts
10 designated in each notice as current support, as follows:

11 (i) ~~(a)~~ If the total of the amounts designated in the notices
12 as current support exceeds ~~the amount available for income~~
13 ~~withholding~~ **50% OF THE PAYER'S DISPOSABLE EARNINGS**, then the source
14 of income shall allocate to each order an amount for current
15 support equal to the amount designated in the notice as current
16 support, divided by the total of the amounts designated in the
17 notices as current support, multiplied by the amount of income
18 available for income withholding.

19 (ii) ~~(b)~~ If the total of the amounts designated in the notices
20 as current support does not exceed ~~the amount available for income~~
21 ~~withholding~~ **50% OF THE PAYER'S DISPOSABLE EARNINGS**, then the source
22 of income shall pay the amounts designated as current support, and
23 in addition shall proportionately allocate to each order an amount
24 for past due support not to exceed the amount designated in the
25 notice as past due support. This subdivision does not require the
26 maximum withholding to satisfy past due child or spousal support.

27 (c) If the total amounts allocated to current and past due

1 support do not exceed ~~the amount available for income withholding~~
2 **50% OF THE PAYER'S DISPOSABLE EARNINGS**, then the source of income
3 shall allocate the remaining income to the parent's portion of
4 health care coverage premiums attributable to coverage of the
5 children specified in the order if remaining income is sufficient
6 to cover the cost of the premium. This subdivision does not require
7 a source of income to pay the parent's portion of health care
8 coverage premiums.

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

15 (3) A source of income shall identify each withholding by
16 payer, payer's social security number, case ~~number~~ **NUMBERS**, amount
17 withheld, and the date on which support was withheld from the
18 payer's income. If the source of income is an employer, it shall
19 also provide its federal employer identification number. A source
20 of income may meet the requirements of this subsection through the
21 use of an automated reporting system established by the SDU.

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

26 Sec. 19. (1) If the court awards to the payer sole custody of
27 a child for whom the payer has been previously ordered to pay

1 support and a previously accumulated arrearage under the support
2 order for that child does not exist, the court shall modify any
3 existing support order to exclude support ordered to be paid by
4 that payer for that particular child. If an existing support order
5 does not provide for support to any other child of whom the payer
6 does not have custody, for support to a former spouse, or for
7 payments of ~~confinement or pregnancy~~ **OR BIRTH** expenses, the court
8 shall terminate the order of income withholding as soon as any
9 previously accumulated arrearage has been paid.

10 (2) The office of the friend of the court shall suspend or
11 terminate an order of income withholding under any of the following
12 circumstances:

13 (a) The location of the child and custodial parent cannot be
14 determined for a period of 60 days or more, and the friend of the
15 court case is being closed.

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

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

27 (d) The parties enter into a written agreement that is

1 reviewed and entered in the record by the court that provides for
2 all of the following:

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

4 (ii) An alternative payment arrangement.

5 (iii) For a friend of the court case, the payer shall keep the
6 office of the friend of the court informed of both of the
7 following:

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

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

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

19 (a) There is a support arrearage.

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

23 (4) If a written agreement is entered into under subsection
24 (2)(d), the order of income withholding shall take effect when an
25 arrearage in support payments as agreed to under the written
26 agreement reaches the arrearage amount that would require the
27 initiation of 1 or more support enforcement measures if the case

1 were a friend of the court case, as provided in section 11 of the
2 friend of the court act, MCL 552.511.

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

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

8 Sec. 24. For a friend of the court case, if **THE CASE HAS NOT**
9 **BEEN DESIGNATED FOR OFFSET PROCEEDINGS BY THE OFFICE OF CHILD**
10 **SUPPORT AND** a support arrearage has accrued **THAT MEETS THE**
11 **REQUIREMENTS ESTABLISHED BY STATE OR FEDERAL LAW, REGULATION, OR**
12 **RULE, AS APPLICABLE,** the office of the friend of the court may
13 request the office of child support to initiate offset proceedings
14 against the delinquent payer's state tax refunds and federal income
15 tax refunds as provided in section 3a of the office of child
16 support act, 1971 PA 174, MCL 400.233a.

17 Sec. 25a. (1) The amount of past due support that accrues
18 under a judgment as provided in section 3 or under the law of
19 another state constitutes a lien in favor of the recipient of
20 support against the real and personal property of a payer,
21 including, but not limited to, money to be paid as a distribution
22 from a decedent's estate; as the result of a claim for negligence,
23 personal injury, or death; under an arbitration award; under a
24 settlement of or judgment issued in a civil action; or as
25 compensation under a worker's compensation order, settlement,
26 redemption order, or voluntary payment. The lien is effective at
27 the time that the support is due and unpaid and ~~shall continue~~

1 **CONTINUES** until the amount of past due support is paid in full or
2 the lien is terminated by the title IV-D agency.

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

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

9 ~~—— (4) Before a lien is perfected or levied under this act, the~~
10 ~~title IV-D agency shall send a notice to the payer subject to the~~
11 ~~support order informing the payer of the imposition of liens by~~
12 ~~operation of law and that the payer's real and personal property~~
13 ~~can be encumbered or seized if an arrearage accrues in an amount~~
14 ~~that exceeds the amount of periodic support payments payable under~~
15 ~~the payer's support order for the time period specified in this~~
16 ~~act.~~

17 (4) A LIEN SHALL NOT BE PERFECTED OR LEVIED UNDER THIS ACT
18 UNLESS THE TITLE IV-D AGENCY HAS PROVIDED A NOTICE TO THE PAYER
19 THAT LIENS EXIST BY OPERATION OF LAW AND THAT THE PAYER'S REAL AND
20 PERSONAL PROPERTY CAN BE ENCUMBERED OR SEIZED IF AN ARREARAGE
21 ACCRUES IN AN AMOUNT THAT EXCEEDS THE PERIODIC SUPPORT PAYMENTS
22 PAYABLE UNDER THE PAYER'S SUPPORT ORDER FOR THE TIME SPECIFIED IN
23 THIS ACT. NOTICE HAS BEEN PROVIDED IF IT IS IN THE PAYER'S SUPPORT
24 ORDER OR IF IT WAS MAILED TO THE PAYER AT ANY TIME.

25 (5) The title IV-D agency or another person required to
26 provide notice under this section or sections 25b to 25i shall
27 provide notice by paper, unless the person to be notified agrees to

1 notice by other means. The title IV-D agency or other person
2 providing notice under this section or sections 25b to 25i shall
3 complete and preserve proof of service of the notice in a form **THAT**
4 substantially ~~conforming~~ **CONFORMS** to the requirements for proof of
5 service under the Michigan court rules.

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

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

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

12 (c) Property or an allowance described in ~~sections 2401 to~~
13 ~~2404~~ **PART 4 OF ARTICLE II** of the estates and protected individuals
14 code, 1998 PA 386, MCL 700.2401 to 700.2404.

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

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

25 (i) Attorney fees.

26 (ii) Court costs and other litigation costs, including, but not
27 limited to, medical examination costs, expenses for reports,

1 deposition fees, court reporter fees, and record copy fees.

2 (iii) The medicaid program under the social welfare act, 1939 PA
3 280, MCL 400.1 to 400.119b, unless medicaid is subordinated to
4 child support under federal law.

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

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

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

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

26 (viii) For vocational rehabilitation costs, reimbursements, or
27 credits incidental to long- or short-term disability programs or to

1 pension or welfare benefit funds.

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

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

7 (g) Money to be paid for allowable expenses that are payable
8 as benefits under section 3107(1)(a) ~~and for expenses under section~~
9 ~~3107(1)(e) OR (C)~~ of the insurance code of 1956, 1956 PA 218, MCL
10 500.3107.

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

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

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

21 (i) "Carrier" as that term is defined in section 601 of the
22 worker's disability compensation act of 1969, 1969 PA 317, MCL
23 418.601.

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

26 (iii) The property and casualty guaranty association required to
27 be maintained by section 7911 of the insurance code of 1956, 1956

1 PA 218, MCL 500.7911.

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

4 Sec. 26b. (1) An order or notice for dependent health care
5 coverage entered under this act shall include the information
6 required in a qualified medical child support order as specified in
7 ~~section 609 of part 6 of subtitle B of title I of the employee~~
8 ~~retirement income security act of 1974, Public Law 93-406, 29~~
9 ~~U.S.C. 29~~ USC 1169, if the health care coverage plan of the
10 individual who is responsible for providing a child with health
11 care coverage is subject to ~~that act~~ **THE EMPLOYEE RETIREMENT INCOME**
12 **SECURITY ACT OF 1974, PUBLIC LAW 93-406**, and shall comply with
13 standards of the national medical support notice as required to
14 meet federal law and regulations.

15 (2) An order or notice of an order for dependent health care
16 coverage served on an employer shall direct the employer to
17 withhold from the employee's income the employee's share, if any,
18 of premiums for dependent health care coverage and pay that amount
19 to the insurer or plan administrator. The order or notice shall
20 also direct that the amount withheld for support, fees, and health
21 care premiums shall not exceed ~~the amount allowed under section~~
22 ~~303(b) of title III of the consumer credit protection act, Public~~
23 ~~Law 90-321, 15 U.S.C. 1673~~ **50% OF THE EMPLOYEE'S DISPOSABLE**
24 **EARNINGS AS THAT TERM IS DEFINED IN 15 USC 1672.**

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

1 Sec. 28. (1) For a friend of the court case, ~~the office of the~~
2 ~~friend of the court may petition the court for an order to suspend~~
3 a payer's occupational license, driver's license, or recreational
4 or sporting license, or any combination of the licenses, **MAY BE**
5 **SUSPENDED** if all of the following circumstances are true:

6 (a) An arrearage has accrued in an amount greater than the
7 amount of periodic support payments payable for 2 months under the
8 payer's support order.

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

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

15 (2) ~~An~~ **BEFORE SEEKING THE SUSPENSION OF A LICENSE DESCRIBED IN**
16 **SUBSECTION (1), AN** office of the friend of the court shall ~~not file~~
17 ~~a petition as authorized under subsection (1) unless the office~~
18 ~~sends~~ **SEND** the payer a notice that includes all of the following
19 information:

20 (a) The amount of the arrearage.

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

24 (c) That ~~the~~ **A** suspension order **OR NOTICE** will be ~~entered and~~
25 sent to the licensing agency unless the payer responds by paying
26 the arrearage or requesting a hearing within 21 days after the date
27 of mailing the notice.

1 (d) That, ~~at the~~ **IF A hearing IS REQUESTED**, the payer may do
2 either of the following **AT THE HEARING**:

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

5 (ii) ~~Suggest to~~ **ASK** the court **TO ORDER** a schedule for the
6 payment of the arrearage.

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

11 Sec. 29. (1) Within 21 days after the date on which ~~the~~ **A**
12 notice described in section 28 is mailed to a payer, the payer may
13 request a hearing on the proposed suspension. If the payer requests
14 a hearing within that time, ~~entry of the~~ **A** suspension order shall
15 ~~be delayed~~ **NOT BE ENTERED AND A SUSPENSION NOTICE SHALL NOT BE SENT**
16 pending the outcome of the hearing.

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

26 (3) If, **AFTER A HEARING UNDER THIS SECTION**, the court
27 determines that the payer has accrued an arrearage on his or her

1 support order and that the payer has, or could by the exercise of
2 due diligence have, the capacity to pay all or some portion of the
3 amount due, the court shall order the payment of the arrearage, **AS**
4 **REASONABLE**, in 1 or more scheduled installments of a sum certain.

5 (4) After 21 days after the date on which ~~the~~**A** notice
6 described in section 28 is sent, the **FRIEND OF THE COURT SHALL**
7 **NOTIFY THE SECRETARY OF STATE IF THE PAYER HAS FAILED TO REQUEST OR**
8 **ATTEND A HEARING ON THE PROPOSED SUSPENSION OR PAY THE ARREARAGE IN**
9 **FULL. ON RECEIVING THE NOTICE FROM THE FRIEND OF THE COURT, THE**
10 **SECRETARY OF STATE SHALL SUSPEND THE PAYER'S DRIVER'S LICENSE AS**
11 **PROVIDED IN SECTION 321C OF THE MICHIGAN VEHICLE CODE, 1949 PA 300,**
12 **MCL 257.321C.**

13 (5) **THE** court may order the suspension of the payer's
14 occupational license, ~~driver's license,~~ or recreational or
15 sporting license, or any combination of the licenses included in
16 the notice under section 28, under either of the following
17 circumstances:

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

21 (b) The **COURT DETERMINES AFTER A HEARING THAT THE** payer ~~fails~~
22 **HAS FAILED** to comply with an arrearage payment schedule ordered
23 under this section.

24 (6) **IF A COURT DETERMINES THAT A PAYER HAS FAILED TO COMPLY**
25 **WITH AN ARREARAGE PAYMENT SCHEDULE ORDERED UNDER THIS SECTION, THE**
26 **COURT MAY DIRECT THE FRIEND OF THE COURT TO NOTIFY THE SECRETARY OF**
27 **STATE OF THE FAILURE. ON RECEIVING THE NOTICE FROM THE FRIEND OF**

1 THE COURT, THE SECRETARY OF STATE SHALL SUSPEND THE PAYER'S
2 DRIVER'S LICENSE AS PROVIDED IN SECTION 321C OF THE MICHIGAN
3 VEHICLE CODE, 1949 PA 300, MCL 257.321C.

4 Sec. 30. (1) If the court orders a suspension of an
5 occupational license, driver's license, or recreational or sporting
6 license, or any combination of the licenses, under section 29, 33,
7 35, or 45, the order shall indicate that the licensing agency shall
8 suspend the license within 7 business days after receipt of the
9 suspension order, **OR SOONER IF REQUIRED BY THE ACT THAT AUTHORIZES**
10 **THE LICENSING AGENCY TO SUSPEND THE LICENSE.** The office of the
11 friend of the court shall send a copy of the suspension order to
12 the licensing agency. ~~If the payer is the subject of a suspension~~
13 ~~order under section 29 and has failed to respond in any manner to~~
14 ~~the notice given under section 28, the office of the friend of the~~
15 ~~court shall not send the suspension order to the licensing agency~~
16 ~~until at least 14 days after the date the office first attempts~~
17 ~~service of a copy of the order on the payer by personal service or~~
18 ~~by registered or certified mail, return receipt requested, with~~
19 ~~delivery restricted to the payer.~~

20 (2) After ~~entry of a~~ suspension order **IS ENTERED OR AFTER A**
21 **SUSPENSION** under section 29, a payer may agree to and the court may
22 order a **REASONABLE** schedule for the payment of the arrearage. If
23 the court orders a schedule for payment of the arrearage, the **COURT**
24 **OR THE FRIEND OF THE COURT, AS APPLICABLE, SHALL DO THE FOLLOWING:**

25 (A) **THE** court shall enter an order rescinding the suspension
26 order that is effective as provided in section 4 of the regulated
27 occupation support enforcement act, 1996 PA 236, MCL 338.3434,

1 ~~section 321c of the Michigan vehicle code, 1949 PA 300, MCL~~
2 ~~257.321c,~~ or section 43559 of the natural resources and
3 environmental protection act, 1994 PA 451, MCL 324.43559. If a
4 suspension order has been sent, within 7 business days after entry
5 of the order rescinding the suspension order, the office of the
6 friend of the court shall send a copy of the order rescinding the
7 suspension order to the licensing agency.

8 **(B) THE FRIEND OF THE COURT, ON VERIFICATION BY THE CLERK OF**
9 **THE COURT THAT THE DRIVER'S LICENSE CLEARANCE FEE REQUIRED BY**
10 **SECTION 321C OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL**
11 **257.321C, HAS BEEN PAID, SHALL PROVIDE A CERTIFICATE TO THE PAYER**
12 **STATING THAT THE PAYER IS IN COMPLIANCE WITH THE SUPPORT ORDER.**

13 Sec. 31. (1) If a person is ordered to pay support under a
14 support order and fails or refuses to obey and perform the order,
15 and if an order of income withholding is inapplicable or
16 unsuccessful, a recipient of support or the office of the friend of
17 the court may commence a civil contempt proceeding by filing in the
18 circuit court a petition for an order to show cause why the
19 delinquent payer should not be held in contempt. If the payer fails
20 to appear in response to an order to show cause, the court shall do
21 1 or more of the following:

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

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

25 (c) Apply an enforcement remedy authorized under this act or
26 the friend of the court act for the nonpayment of support,
27 **INCLUDING SUSPENDING THE PAYER'S OCCUPATIONAL LICENSE, DRIVER'S**

1 LICENSE, OR RECREATIONAL OR SPORTING LICENSE.

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

6 (e) Adjourn the hearing.

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

9 (G) ENTER AN ORDER THAT A LAW ENFORCEMENT AGENCY RENDER ANY
10 VEHICLE OWNED BY THE PAYER TEMPORARILY INOPERABLE, BY BOOTING OR
11 ANOTHER SIMILAR METHOD, SUBJECT TO RELEASE ON DEPOSIT OF AN
12 APPROPRIATE BOND.

13 (H) PLACE THE PAYER UNDER THE SUPERVISION OF THE OFFICE FOR A
14 TERM FIXED BY THE COURT WITH REASONABLE CONDITIONS, INCLUDING 1 OR
15 MORE OF THE FOLLOWING:

16 (i) PARTICIPATING IN A PARENTING PROGRAM.

17 (ii) PARTICIPATING IN DRUG OR ALCOHOL COUNSELING.

18 (iii) PARTICIPATING IN A WORK PROGRAM.

19 (iv) SEEKING EMPLOYMENT.

20 (v) PARTICIPATING IN OTHER COUNSELING.

21 (vi) CONTINUING COMPLIANCE WITH A CURRENT SUPPORT OR PARENTING
22 TIME ORDER.

23 (vii) ENTERING INTO AND COMPLIANCE WITH AN ARREARAGE PAYMENT
24 PLAN.

25 (2) In a bench warrant issued under this section, the court
26 shall decree that the payer is subject to arrest if apprehended or
27 detained anywhere in this state and shall require that, upon

1 arrest, unless the payer deposits a cash performance bond in the
2 manner required by section 32, the payer shall remain in custody
3 until the time of the hearing. The court shall specify in the bench
4 warrant the cash performance bond amount. The court shall set the
5 cash performance bond at not less than \$500.00 or 25% of the
6 arrearage, whichever is greater. At its own discretion, the court
7 may set the cash performance bond at an amount up to 100% of the
8 arrearage and add to the amount of the required deposit the amount
9 of the costs the court may require under subsection (3). If a payer
10 is arrested on a felony warrant issued for a violation of section
11 165 of the Michigan penal code, 1931 PA 328, MCL 750.165, unless
12 the payer deposits a cash performance bond in the manner required
13 by section 32, the court shall require that, upon arrest, the payer
14 remain in custody until the time of the preliminary examination.
15 Upon notification that a payer who has an outstanding bench warrant
16 under this section has been arrested or arraigned on a felony
17 warrant for a violation of section 165 of the Michigan penal code,
18 1931 PA 328, MCL 750.165, the court may order that the bench
19 warrant be recalled.

20 (3) If the court issues a bench warrant under this section,
21 except for good cause shown on the record, the court shall order
22 the payer to pay the costs related to the hearing, **THE** issuance of
23 the warrant, **THE** arrest, and ~~further~~ **ANY LATER** hearings. Those
24 costs and costs ordered for failure to appear under section 32 or
25 44 shall be transmitted to the county treasurer for distribution as
26 required in section 2530 of the revised judicature act of 1961,
27 1961 PA 236, MCL 600.2530.

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

14 (a) ~~Committing~~**COMMITTS** the payer to the county jail **OR AN**
15 **ALTERNATIVE TO JAIL.**

16 (b) ~~Committing~~**COMMITTS** the payer to the county jail **OR AN**
17 **ALTERNATIVE TO JAIL** with the privilege of leaving the jail **OR OTHER**
18 **PLACE OF DETENTION** during the hours the court determines, and under
19 the supervision the court considers, necessary for the purpose of
20 allowing the payer to go to and return from his or her place of
21 employment.

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

25 (d) If the payer holds an occupational license, driver's
26 license, or recreational or sporting license, ~~conditioning~~
27 **CONDITIONS** a suspension of the payer's license, or any combination

1 of the licenses, upon noncompliance with an order for payment of
 2 the arrearage in 1 or more scheduled installments of a sum certain.
 3 A court shall not order the sanction authorized by this subdivision
 4 unless the court finds that the payer has accrued an arrearage of
 5 support payments in an amount greater than the amount of periodic
 6 support payments payable for 2 months under the payer's support
 7 order.

8 (e) ~~Ordering~~ **ORDERS** the payer to participate in a work
 9 activity. This subdivision does not alter the court's authority to
 10 include provisions in an order issued under this section concerning
 11 a payer's employment or his or her seeking of employment as that
 12 authority exists on August 10, 1998.

13 (f) If available within the court's jurisdiction, ~~order~~ **ORDERS**
 14 the payer to participate in a community corrections program
 15 established as provided in the community corrections act, 1988 PA
 16 511, MCL 791.401 to 791.414.

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

22 **(H) PLACES THE PAYER UNDER THE SUPERVISION OF THE OFFICE FOR A**
 23 **TERM FIXED BY THE COURT WITH REASONABLE CONDITIONS, INCLUDING 1 OR**
 24 **MORE OF THE FOLLOWING:**

25 **(i) PARTICIPATING IN A PARENTING PROGRAM.**

26 **(ii) PARTICIPATING IN DRUG OR ALCOHOL COUNSELING.**

27 **(iii) PARTICIPATING IN A WORK PROGRAM.**

1 (iv) SEEKING EMPLOYMENT.

2 (v) PARTICIPATING IN OTHER COUNSELING.

3 (vi) CONTINUING COMPLIANCE WITH A CURRENT SUPPORT OR PARENTING
4 TIME ORDER.

5 (vii) ENTERING INTO AND COMPLIANCE WITH AN ARREARAGE PAYMENT
6 PLAN.

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

13 Sec. 35. (1) The court may find a payer in contempt if the
14 court finds that the payer is in arrears and 1 of the following
15 **APPLIES:**

16 (a) The court is satisfied that by the exercise of diligence
17 the payer could have the capacity to pay all or some portion of the
18 amount due under the support order and that the payer fails or
19 refuses to do so.

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

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

27 (a) Commit the payer to the county jail **OR AN ALTERNATIVE TO**

1 **JAIL** with the privilege of leaving the jail **OR OTHER PLACE OF**
2 **DETENTION** during the hours the court determines, and under the
3 supervision the court considers, necessary for the purpose of
4 allowing the payer to participate in a work activity.

5 (b) If the payer holds an occupational license, driver's
6 license, or recreational or sporting license, condition a
7 suspension of the payer's license, or a combination of the
8 licenses, upon noncompliance with an order for payment of the
9 arrearage in 1 or more scheduled installments of a sum certain. A
10 court shall not order the sanction authorized by this subdivision
11 unless the court finds that the payer has accrued an arrearage of
12 support payments in an amount greater than the amount of periodic
13 support payments payable for 2 months under the payer's support
14 order.

15 (c) If available within the court's jurisdiction, order the
16 payer to participate in a community corrections program established
17 as provided in the community corrections act, 1988 PA 511, MCL
18 791.401 to 791.414.

19 (d) Except as provided by federal law and regulations, order
20 the parent to pay a fine of not more than \$100.00. A fine ordered
21 under this subdivision shall be deposited in the friend of the
22 court fund created in section 2530 of the revised judicature act of
23 1961, 1961 PA 236, MCL 600.2530.

24 **(E) PLACE THE PAYER UNDER THE SUPERVISION OF THE OFFICE FOR A**
25 **TERM FIXED BY THE COURT WITH REASONABLE CONDITIONS, INCLUDING 1 OR**
26 **MORE OF THE FOLLOWING:**

27 **(i) PARTICIPATING IN A PARENTING PROGRAM.**

1 (ii) PARTICIPATING IN DRUG OR ALCOHOL COUNSELING.

2 (iii) PARTICIPATING IN A WORK PROGRAM.

3 (iv) SEEKING EMPLOYMENT.

4 (v) PARTICIPATING IN OTHER COUNSELING.

5 (vi) CONTINUING COMPLIANCE WITH A CURRENT SUPPORT OR PARENTING
6 TIME ORDER.

7 (vii) ENTERING INTO AND COMPLIANCE WITH AN ARREARAGE PAYMENT
8 PLAN.

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

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

16 (b) The payer is employed and completes 2 consecutive weeks at
17 his or her employment and an order of income withholding is
18 effective.

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

25 Sec. 39. (1) If a payer is committed to jail **OR AN ALTERNATIVE**
26 **TO JAIL** under section ~~33(b) or 35(2)~~ **33(1)(B) OR 35(2)(A)** and
27 violates the conditions ~~of~~ **PRESCRIBED BY** the court, the court shall

1 commit the payer to the county jail without the privilege provided
2 under section ~~33(b) or 35(2)~~ **33(1)(B) OR 35(2)(A)** for the balance
3 of the period of the commitment imposed by the court.

4 (2) If a payer is committed to jail **OR AN ALTERNATIVE TO JAIL**
5 under section ~~33(b) or 35(2)~~ **33(1)(B) OR 35(2)(A)** and fails to
6 return to the place of confinement within the time prescribed, the
7 payer shall be considered to have escaped from custody and shall be
8 guilty of a misdemeanor, punishable by imprisonment for not more
9 than 1 year.

10 Sec. 44. (1) If the office of the friend of the court
11 determines that a procedure for resolving a parenting time dispute
12 authorized under section 41 other than a civil contempt proceeding
13 is unsuccessful in resolving a ~~THE~~ parenting time dispute, the
14 office of the friend of the court shall commence a civil contempt
15 proceeding to resolve a ~~THE~~ dispute ~~concerning parenting time with~~
16 ~~a minor child~~ by filing with the circuit court a petition for an
17 order to show cause why either parent who has violated a parenting
18 time order should not be held in contempt. The office of the friend
19 of the court shall notify the parent who is the subject of the
20 petition. The notice shall include at least all of the following:

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

23 (b) The right of the parent to a hearing on a proposed
24 modification of parenting time if requested within 21 days after
25 the date of the notice, as provided in section 45.

26 (2) If the court finds that either parent has violated a
27 parenting time order without good cause, the court shall find that

1 parent in contempt and may do 1 or more of the following:

2 (a) Require additional terms and conditions consistent with
3 the court's parenting time order.

4 (b) After notice to both parties and a hearing, if requested
5 by a party, on a proposed modification of parenting time, modify
6 the parenting time order to meet the best interests of the child.

7 (c) Order that makeup parenting time be provided for the
8 wrongfully denied parent to take the place of wrongfully denied
9 parenting time.

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

11 (e) Commit the parent to the county jail **OR AN ALTERNATIVE TO**
12 **JAIL.**

13 (f) Commit the parent to the county jail **OR AN ALTERNATIVE TO**
14 **JAIL** with the privilege of leaving the jail **OR OTHER PLACE OF**
15 **DETENTION** during the hours the court determines necessary, and
16 under the supervision the court considers necessary, for the
17 purpose of allowing the parent to go to and return from his or her
18 place of employment.

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

23 (h) If available within the court's jurisdiction, order the
24 parent to participate in a community corrections program
25 established as provided in the community corrections act, 1988 PA
26 511, MCL 791.401 to 791.414.

27 **(I) PLACE THE PARENT UNDER THE SUPERVISION OF THE OFFICE FOR A**

1 TERM FIXED BY THE COURT WITH REASONABLE CONDITIONS, INCLUDING 1 OR
2 MORE OF THE FOLLOWING:

3 (i) PARTICIPATING IN A PARENTING PROGRAM.

4 (ii) PARTICIPATING IN DRUG OR ALCOHOL COUNSELING.

5 (iii) PARTICIPATING IN A WORK PROGRAM.

6 (iv) SEEKING EMPLOYMENT.

7 (v) PARTICIPATING IN OTHER COUNSELING.

8 (vi) CONTINUING COMPLIANCE WITH A CURRENT SUPPORT OR PARENTING
9 TIME ORDER.

10 (vii) ENTERING INTO AND COMPLIANCE WITH AN ARREARAGE PAYMENT
11 PLAN.

12 (viii) FACILITATING MAKEUP PARENTING TIME.

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

18 (4) A commitment under subsection (2)(e) or (f) shall not
19 exceed 45 days for the first finding of contempt or 90 days for
20 each subsequent finding of contempt. A parent committed under
21 subsection (2)(e) or (f) shall be released if the court has
22 reasonable cause to believe that the parent will comply with the
23 parenting time order.

24 (5) If a parent fails to appear in response to an order to
25 show cause, the court may issue a bench warrant requiring that the
26 parent be brought before the court without unnecessary delay to
27 show cause why the parent should not be held in contempt. Except

1 for good cause shown on the record, the court shall further order
2 the parent to pay the costs of the hearing, the issuance of the
3 warrant, the arrest, and ~~further~~**ANY LATER** hearings, which costs
4 shall be transmitted to the county treasurer for distribution as
5 provided in section 31. **IF THE HEARING CANNOT BE HELD IMMEDIATELY**
6 **AFTER THE PARENT'S ARREST, THE PARENT MAY BE RELEASED IF A BOND IN**
7 **THE AMOUNT OF THE FINES, COSTS, AND SANCTIONS IMPOSED UNDER THIS**
8 **SECTION AND ANY ADDITIONAL AMOUNT THE COURT DETERMINES IS NECESSARY**
9 **TO SECURE THE PARENT'S APPEARANCE IS DEPOSITED WITH THE COURT.**

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

20 (7) A fine ordered under subsection (2), costs ordered under
21 subsection (5), or a sanction ordered under subsection (6) ~~becomes~~
22 **IS a judgment at the time they are ordered****THE ORDER IS ENTERED.**

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

26 Sec. 45. (1) If the court enters an order under section
27 44(2)(g) and the parent fails to comply with the makeup and ongoing

1 parenting time schedule, the court shall find the parent in
2 contempt and, after notice and an opportunity for a hearing, may
3 ~~order suspension of~~ **SUSPEND** the parent's license or licenses with
4 respect to which the order under section 44(2)(g) was entered and
5 proceed under section 30.

6 (2) After entry of a suspension order under subsection (1), a
7 parent may agree to a makeup parenting time schedule. The court may
8 order a makeup parenting time schedule if the parent demonstrates a
9 good faith effort to comply with the parenting time order. If the
10 court orders a makeup parenting time schedule, the **COURT OR THE**
11 **FRIEND OF THE COURT, AS APPLICABLE, SHALL DO THE FOLLOWING:**

12 (A) **THE** court shall enter an order rescinding the suspension
13 order that is effective as provided in section 4 of the regulated
14 occupation support enforcement act, 1996 PA 236, MCL 338.3434,
15 ~~section 321c of the Michigan vehicle code, 1949 PA 300, MCL~~
16 ~~257.321c,~~ or section 43559 of the natural resources and
17 environmental protection act, 1994 PA 451, MCL 324.43559. Within 7
18 business days after entry of the order rescinding the suspension
19 order, the office of the friend of the court shall send a copy of
20 the order rescinding the suspension order to the licensing agency.

21 (B) **THE FRIEND OF THE COURT, ON VERIFICATION BY THE CLERK OF**
22 **THE COURT THAT THE DRIVER'S LICENSE CLEARANCE FEE REQUIRED BY**
23 **SECTION 321C OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL**
24 **257.321C, HAS BEEN PAID, SHALL PROVIDE A CERTIFICATE TO THE PAYER**
25 **STATING THAT THE PAYER IS IN COMPLIANCE WITH THE SUPPORT ORDER.**

26 (3) Within 21 days after the date of the notice under section
27 44, a parent who is notified of a petition to show cause under

1 section 44 may request a hearing on a proposed modification of
 2 parenting time. The court shall hold the requested hearing unless
 3 the parenting time dispute is resolved by other means. The court
 4 shall combine the hearing prescribed by this subsection with the
 5 hearing on the order to show cause unless the court finds for good
 6 cause shown on the record that the hearings should be held
 7 separately. If the court finds that the hearings should be held
 8 separately, the hearing on a proposed modification of parenting
 9 time shall be held before the hearing on the order to show cause.

10 Sec. 46. (1) If a custodial parent is committed to jail **OR AN**
 11 **ALTERNATIVE TO JAIL** under section ~~44(2)(e)~~ **44(2)(F)** and violates
 12 the conditions ~~of~~ **ORDERED BY** the court, the court shall commit the
 13 person to the county jail without the privilege provided under
 14 section ~~44(2)(e)~~ **44(2)(F)** for the balance of the period of
 15 commitment imposed by the court.

16 (2) If a custodial parent is committed to jail **OR AN**
 17 **ALTERNATIVE TO JAIL** under section ~~44(2)(e)~~ **44(2)(F)** and fails to
 18 return to the place of confinement within the time prescribed, the
 19 custodial parent shall be considered to have escaped from custody
 20 and ~~shall be~~ **IS** guilty of a misdemeanor, punishable by imprisonment
 21 for not more than 1 year.

22 Sec. 48. ~~The department, the SDU, and each office of the~~
 23 ~~friend of the court shall cooperate in the transition to~~ **STATE**
 24 **DISBURSEMENT UNIT IS RESPONSIBLE FOR** the centralized receipt and
 25 disbursement of support. ~~and fees.~~ An office of the friend of the
 26 court ~~shall~~ **MAY** continue to receive ~~and disburse~~ support and fees.
 27 ~~through the transition, based on the schedule developed as required~~

Senate Bill No. 100 as amended February 5, 2009

1 ~~by section 6 of the office of child support act, 1971 PA 174, MCL~~
2 ~~400.236, and modifications to that schedule as the department~~
3 ~~considers necessary.~~

4 Enacting section 1. Section 3a of the support and parenting
5 time enforcement act, 1982 PA 295, MCL 552.603a, as amended by this
amendatory act, takes effect <<June 30, 2009-December 31, 2009>>.

6 Enacting section 2. Sections 8, 11a, and 26b of the support
7 and parenting time enforcement act, 1982 PA 295, MCL 552.608,
8 552.611a, and 552.626b, as amended by this amendatory act, take
effect <<April 1, 2009-90 days after the date this amendatory act is
enacted into law>>.

9 Enacting section 3. This amendatory act does not take effect
10 unless Senate Bill No. 102

11 of the 95th Legislature is enacted into law.