

Act No. 120  
Public Acts of 1996  
Approved by the Governor  
March 5, 1996  
Filed with the Secretary of State  
March 6, 1996

**STATE OF MICHIGAN  
88TH LEGISLATURE  
REGULAR SESSION OF 1996**

Introduced by Rep. Bullard

# **ENROLLED HOUSE BILL No. 5028**

AN ACT to amend sections 2, 3, and 3a of Act No. 295 of the Public Acts of 1982, entitled as amended "An act to supplement statutes which provide for the enforcement of support and visitation orders with respect to divorce, separate maintenance, paternity, child custody, and spouse support; to prescribe the powers and duties of the circuit court and friend of the court; to prescribe certain duties of certain employers and other sources of income; to provide for penalties and remedies; and to repeal certain acts and parts of acts," section 2 as amended by Act No. 236 of the Public Acts of 1995 and section 3 as amended and section 3a as added by Act No. 141 of the Public Acts of 1995, being sections 552.602, 552.603, and 552.603a of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 2, 3, and 3a of Act No. 295 of the Public Acts of 1982, section 2 as amended by Act No. 236 of the Public Acts of 1995 and section 3 as amended and section 3a as added by Act No. 141 of the Public Acts of 1995, being sections 552.602, 552.603, and 552.603a of the Michigan Compiled Laws, are amended to read as follows:

Sec. 2. As used in this act:

(a) "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.

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

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

(i) Commissions, earnings, salaries, wages, and other income due or to be due in the future from his or her employer and successor employers.

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

(iii) An amount of money that is due to the payer under a support order as a debt of another individual, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that is indebted to the payer.

(d) "Insurer" means an insurer, health maintenance organization, health care corporation, or other group, plan, or entity that provides health care coverage in accordance with any of the following acts:

(i) The public health code, Act No. 368 of the Public Acts of 1978, being sections 333.1101 to 333.25211 of the Michigan Compiled Laws.



(ii) The insurance code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.100 to 500.8302 of the Michigan Compiled Laws.

(iii) The nonprofit health care corporation reform act, Act No. 350 of the Public Acts of 1980, being sections 550.1101 to 550.1704 of the Michigan Compiled Laws.

(e) "Medical assistance" means medical assistance as established under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396g and 1396i to 1396v.

(f) "Office of child support" means the office of child support established in section 2 of the office of child support act, Act No. 174 of the Public Acts of 1971, being section 400.232 of the Michigan Compiled Laws.

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

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

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

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

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

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

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

(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 state department of social services, if support has been assigned to the department.

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

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

(o) "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, Act No. 205 of the Public Acts of 1956, being sections 722.711 to 722.730 of the Michigan Compiled Laws, for the necessary expenses incurred by or for the mother in connection with her confinement or of other expenses in connection with the pregnancy of the mother.

(iii) A surcharge accumulated under section 3a.

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

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

(2) Except as otherwise provided in this section, a support order that is part of a judgment or is an order in a domestic relations matter as defined in section 31 of the friend of the court act, being section 552.531 of the Michigan Compiled Laws, is a judgment on and after the date each support payment is due, with the full force, effect, and attributes of a judgment of this state, and is not, on and after the date it is due, subject to retroactive modification. Retroactive modification of a support payment due under a support order is permissible with respect to any period during which there is pending a petition for modification, but only from the date that notice of the petition was given to the payer or recipient of support.

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

(4) The office of the friend of the court shall make available to a payer or payee the forms and instructions described in section 17a of the friend of the court act, being section 552.517a of the Michigan Compiled Laws.

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

(6) Every support order that is part of a judgment issued by a court of this state or that is an order in a domestic relations matter as defined in section 31 of the friend of the court act shall include both of the following:



(a) Substantially the following statement: "Except as otherwise provided in section 3 of the support and parenting time enforcement act, Mich. Comp. Laws §552.603 (1979), a support order that is part of a judgment or that is an order in a domestic relations matter as defined in section 31 of the friend of the court act, Mich. Comp. Laws §552.531 (1979), is a judgment on and after the date each support payment is due, with the full force, effect, and attributes of a judgment of this state, and is not, on and after the date it is due, subject to retroactive modification. A surcharge will be added to support payments that are past due as provided in section 3a of the support and parenting time enforcement act, Mich. Comp. Laws §552.603a (1979)."

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

(7) A support order shall not accrue interest.

Sec. 3a. (1) As of January 1 and July 1 of each year, a surcharge calculated at an 8% annual rate shall be added to support payments that are past due as of those dates. The amount shown as due and owing on the records of the friend of the court as of January 1 and July 1 of each year shall be reduced by an amount equal to 2 weeks' support for purposes of assessing the surcharge. A surcharge under this subsection shall not be added to support ordered under the paternity act, Act No. 205 of the Public Acts of 1956, being sections 722.711 to 722.730 of the Michigan Compiled Laws, for the time period to the date of the support order.

(2) Upon receiving money for payment of support, the friend of the court shall apply the amount received first to current support and then to any support arrearage including any surcharges imposed under this section.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved -----

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Governor.