



# HOUSE BILL No. 5167

September 28, 1995, Introduced by Reps. Jamian, Hammerstrom, Nye, Law, Johnson, LaForge, Cherry, Brewer, Brater, Scott, Pitoniak and Llewellyn and referred to the Committee on Judiciary and Civil Rights.

A bill to amend the title and sections 2, 8, 9, and 11a of Act No. 295 of the Public Acts of 1982, entitled as amended "Support and visitation enforcement act," section 2 as amended by Act No. 141 of the Public Acts of 1995, section 8 as added and section 9 as amended by Act No. 210 of the Public Acts of 1985, and section 11a as amended by Act No. 296 of the Public Acts of 1990, being sections 552.602, 552.608, 552.609, and 552.611a of the Michigan Compiled Laws; and to add sections 26, 26a, 26b, 26c, and 26d.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. The title and sections 2, 8, 9, and 11a of Act  
2 No. 295 of the Public Acts of 1982, section 2 as amended by Act  
3 No. 141 of the Public Acts of 1995, section 8 as added and  
4 section 9 as amended by Act No. 210 of the Public Acts of 1985,  
5 and section 11a as amended by Act No. 296 of the Public Acts of

1 1990, being sections 552.602, 552.608, 552.609, and 552.611a of  
2 the Michigan Compiled Laws, are amended and sections 26, 26a,  
3 26b, 26c, and 26d are added to read as follows:

4 TITLE

5 An act TO PROVIDE FOR AND to supplement statutes ~~which~~  
6 THAT provide for the enforcement of support, HEALTH CARE, and  
7 visitation orders with respect to divorce, separate maintenance,  
8 paternity, child custody, and spouse support; TO PRESCRIBE CER-  
9 TAIN PROVISIONS OF THOSE ORDERS; to prescribe the powers and  
10 duties of the circuit court and friend of the court; to prescribe  
11 certain duties of certain employers and other sources of income;  
12 to provide for penalties and remedies; and to repeal ~~certain~~  
13 acts and parts of acts.

14 Sec. 2. As used in this act:

15 (a) "Employer" means an individual, sole proprietorship,  
16 partnership, association, or private or public corporation, the  
17 United States or a federal agency, this state or a political sub-  
18 division of this state, another state or a political subdivision  
19 of another state, or another legal entity that hires and pays an  
20 individual for his or her services.

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

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

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

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

5       (iii) An amount of money that is due to the payer under a  
6 support order as a debt of another individual, partnership, asso-  
7 ciation, or private or public corporation, the United States or a  
8 federal agency, this state or a political subdivision of this  
9 state, another state or a political subdivision of another state,  
10 or another legal entity that is indebted to the payer.

11       (D) "INSURER" MEANS AN INSURER, HEALTH MAINTENANCE ORGANIZA-  
12 TION, HEALTH CARE CORPORATION, OR OTHER GROUP, PLAN, OR ENTITY  
13 THAT PROVIDES HEALTH CARE COVERAGE IN ACCORDANCE WITH ANY OF THE  
14 FOLLOWING ACTS:

15       (i) THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS  
16 OF 1978, BEING SECTIONS 333.1101 TO 333.25211 OF THE MICHIGAN  
17 COMPILED LAWS.

18       (ii) THE INSURANCE CODE OF 1956, ACT NO. 218 OF THE PUBLIC  
19 ACTS OF 1956, BEING SECTIONS 500.100 TO 500.8302 OF THE MICHIGAN  
20 COMPILED LAWS.

21       (iii) THE NONPROFIT HEALTH CARE CORPORATION REFORM ACT, ACT  
22 NO. 350 OF THE PUBLIC ACTS OF 1980, BEING SECTIONS 550.1101 TO  
23 550.1704 OF THE MICHIGAN COMPILED LAWS.

24       (E) "MEDICAL ASSISTANCE" MEANS MEDICAL ASSISTANCE AS ESTAB-  
25 LISHED UNDER TITLE XIX OF THE SOCIAL SECURITY ACT, CHAPTER 531,  
26 49 STAT. 620, 42 U.S.C. 1396 TO 1396g AND 1396i TO 1396v.

1 (F) ~~(d)~~ "Office of child support" means the office of  
2 child support established in section 2 of THE OFFICE OF CHILD  
3 SUPPORT ACT, Act No. 174 of the Public Acts of 1971, being sec-  
4 tion 400.232 of the Michigan Compiled Laws.

5 (G) ~~(e)~~ "Office of the friend of the court" means the  
6 agency created in section 3 of the friend of the court act, being  
7 section 552.503 of the Michigan Compiled Laws.

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

11 (I) ~~(g)~~ "Payer" means a person who is ordered by the cir-  
12 cuit court to pay support.

13 (J) "PLAN ADMINISTRATOR" MEANS THAT TERM AS USED IN RELATION  
14 TO A GROUP HEALTH PLAN UNDER SECTION 609 OF PART 6 OF SUBTITLE B  
15 OF TITLE I OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF  
16 1974, PUBLIC LAW 93-406, 29 U.S.C. 1169, IF THE HEALTH CARE COV-  
17 ERAGE PLAN OF THE INDIVIDUAL WHO IS RESPONSIBLE FOR PROVIDING A  
18 CHILD WITH HEALTH CARE COVERAGE IS SUBJECT TO THAT ACT.

19 (K) ~~(h)~~ "Political subdivision" means a county, city, vil-  
20 lage, township, educational institution, school district, or spe-  
21 cial district or authority of the state or of a local unit of  
22 government.

23 (L) ~~(i)~~ "Recipient of support" means the following:

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

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

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

6       (M) ~~(j)~~ "Referee" means a person who is designated as a  
7 referee under the friend of the court act.

8       (N) ~~(k)~~ "Source of income" means an employer or successor  
9 employer or another individual or entity that owes or will owe  
10 income to the payer.

11       (O) ~~(l)~~ "Support" means all of the following:

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

17       (ii) The payment of money ordered by the circuit court under  
18 the paternity act, Act No. 205 of the Public Acts of 1956, being  
19 sections 722.711 to 722.730 of the Michigan Compiled Laws, for  
20 the necessary expenses incurred by or for the mother in connec-  
21 tion with her confinement or of other expenses in connection with  
22 the pregnancy of the mother.

23       (iii) A fee accumulated under section 3a.

24       (P) ~~(m)~~ "Support order" means an order entered by the cir-  
25 cuit court for the payment of support, whether or not a sum  
26 certain.

1       Sec. 8. The total amount of income withheld under this act  
2 ~~pursuant to all orders of income withholding~~ UNDER ALL ORDERS  
3 TO WITHHOLD INCOME FOR CURRENT SUPPORT, PAST DUE SUPPORT, FEES,  
4 AND HEALTH CARE COVERAGE PREMIUMS effective against ~~any~~ A payer  
5 shall not exceed the maximum amount permitted under section  
6 303(b) of title III of the consumer credit protection act, Public  
7 Law 90-321, 15 U.S.C. ~~+673(b)~~ 1673.

8       Sec. 9. An order of income withholding entered under this  
9 act shall be served on sources of income as provided in section  
10 11. The order shall direct sources of income to withhold from  
11 income due the payer and to pay to the office of the friend of  
12 the court for the judicial circuit in which the order was entered  
13 an amount sufficient to meet the payments ordered for support and  
14 service fees, and to defray arrearages in payments and service  
15 fees due at the time the order of income withholding takes  
16 effect. The order shall also direct that the amount withheld FOR  
17 SUPPORT, FEES, AND HEALTH CARE COVERAGE PREMIUMS shall not exceed  
18 the amount allowed under section 303(b) of title III of the con-  
19 sumer credit protection act, Public Law 90-321, 15 U.S.C.  
20 ~~+673(b)~~ 1673. The order shall be accompanied by a notice con-  
21 taining a statement of the requirements of sections 11, 11a, 12,  
22 13, 14, ~~+2+~~ and 23. The order shall also direct that ~~any~~  
23 income withheld under the order FOR SUPPORT AND FEES shall be  
24 paid to the office of the friend of the court within 3 days after  
25 the date of the withholding.

26       Sec. 11a. (1) If there is more than 1 order ~~of income~~  
27 ~~withholding against a payer~~ TO WITHHOLD INCOME FOR SUPPORT,

1 FEES, OR HEALTH CARE COVERAGE PREMIUMS AGAINST A PAYER OR PARENT  
2 under this act, the source of income shall comply with all of the  
3 orders to the extent that the total amount withheld from the  
4 payer's OR PARENT'S income does not exceed the limits imposed  
5 under section 303(b) of title III of the consumer credit protec-  
6 tion act, Public Law 90-321, 15 U.S.C. 1673, giving priority to  
7 amounts designated in each order as current support, as follows:

8 (a) If the total of the amounts designated in the orders as  
9 current support exceeds the amount available for income withhold-  
10 ing, then the source of income shall allocate to each order an  
11 amount for current support equal to the amount designated in that  
12 order as current support, divided by the total of the amounts  
13 designated in the orders as current support, multiplied by the  
14 amount of income available for income withholding.

15 (b) If the total of the amounts designated in the orders as  
16 current support does not exceed the amount available for income  
17 withholding, then the source of income shall pay the amounts des-  
18 igned as current support, and in addition shall PROPORTIONATELY  
19 allocate to each order an amount for past due support ~~equal to~~  
20 NOT TO EXCEED the amount designated in that order as past due  
21 support. ~~, divided by the total of the amounts designated in the~~  
22 ~~orders as past due support, multiplied by the amount of income~~  
23 ~~remaining available for income withholding after the payment of~~  
24 ~~current support.~~ THIS SUBDIVISION DOES NOT REQUIRE THE MAXIMUM  
25 WITHHOLDING TO SATISFY PAST DUE CHILD OR SPOUSAL SUPPORT.

26 (c) IF THE TOTAL AMOUNTS ALLOCATED TO CURRENT AND PAST DUE  
27 SUPPORT DO NOT EXCEED THE AMOUNT AVAILABLE FOR INCOME

1 WITHHOLDING, THEN THE SOURCE OF INCOME SHALL ALLOCATE THE  
2 REMAINING INCOME TO THE PARENT'S PORTION OF HEALTH CARE COVERAGE  
3 PREMIUMS ATTRIBUTABLE TO COVERAGE OF THE CHILDREN SPECIFIED IN  
4 THE ORDER IF REMAINING INCOME IS SUFFICIENT TO COVER THE COST OF  
5 THE PREMIUM. THIS SUBDIVISION DOES NOT REQUIRE A SOURCE OF  
6 INCOME TO PAY THE PARENT'S PORTION OF HEALTH CARE COVERAGE  
7 PREMIUMS.

8 (2) A source of income ~~shall be~~ IS liable for any amount  
9 that the source knowingly and intentionally fails to withhold  
10 from the payer's income following service on the source of income  
11 of an order of income withholding, except to the extent that the  
12 amount is limited by subsection (1) and section 303(b) of title  
13 III of the consumer credit protection act.

14 (3) A source of income shall identify each withholding by  
15 payer, payer's social security number, case number, amount with-  
16 held, and the date on which support was withheld from the payer's  
17 income. If the source of income is an employer, it shall provide  
18 its federal employer identification number to the office of the  
19 friend of the court.

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

24 SEC. 26. IF A PARENT FAILS TO OBTAIN OR MAINTAIN HEALTH  
25 CARE COVERAGE FOR THE PARENT'S CHILD AS ORDERED BY THE COURT, THE  
26 OFFICE OF THE FRIEND OF THE COURT SHALL, AS APPLICABLE, DO EITHER  
27 OF THE FOLLOWING:



1 (A) PETITION THE COURT FOR AN ORDER TO SHOW CAUSE WHY THE  
2 PARENT SHOULD NOT BE HELD IN CONTEMPT FOR FAILURE TO OBTAIN OR  
3 MAINTAIN DEPENDENT HEALTH CARE COVERAGE THAT IS AVAILABLE AT A  
4 REASONABLE COST.

5 (B) SEND NOTICE OF NONCOMPLIANCE TO THE PARENT, WHICH NOTICE  
6 STATES THAT THE OFFICE WILL NOTIFY THE PARENT'S EMPLOYER TO  
7 DEDUCT PREMIUMS FOR, AND TO NOTIFY THE INSURER OR PLAN ADMINIS-  
8 TRATOR TO ENROLL THE CHILD IN, DEPENDENT HEALTH CARE COVERAGE  
9 UNLESS THE PARENT DOES EITHER OF THE FOLLOWING WITHIN 14 DAYS  
10 AFTER MAILING OF THE NOTICE:

11 (i) SUBMITS WRITTEN PROOF TO THE FRIEND OF THE COURT OF THE  
12 CHILD'S ENROLLMENT IN A HEALTH CARE COVERAGE PLAN.

13 (ii) REQUESTS A HEARING TO DETERMINE THE AVAILABILITY OR  
14 REASONABLE COST OF THE HEALTH CARE COVERAGE.

15 SEC. 26A. (1) IF A PARENT IS ELIGIBLE FOR HEALTH CARE COV-  
16 ERAGE THROUGH AN EMPLOYER DOING BUSINESS IN THE STATE, THE  
17 EMPLOYER SHALL NOTIFY ITS INSURER OR PLAN ADMINISTRATOR AND TAKE  
18 OTHER ACTION AS REQUIRED TO ENROLL THAT PARENT'S CHILD IN ITS  
19 HEALTH CARE COVERAGE PLAN OR PLANS, WITHOUT REGARD TO ANY ENROLL-  
20 MENT PERIOD RESTRICTIONS, WHEN ALL OF THE FOLLOWING EXIST:

21 (A) THE PARENT IS REQUIRED BY A COURT OR ADMINISTRATIVE  
22 ORDER TO PROVIDE HEALTH CARE COVERAGE FOR THE PARENT'S CHILD.

23 (B) THE CHILD IS ELIGIBLE FOR COVERAGE UNDER THE PLAN. A  
24 CHILD CANNOT BE DENIED ENROLLMENT OR COVERAGE ON THE GROUNDS THAT  
25 THE CHILD WAS BORN OUT OF WEDLOCK, IS NOT CLAIMED AS A DEPENDENT  
26 ON THE PARENT'S FEDERAL INCOME TAX RETURN, DOES NOT RESIDE WITH

1 THE PARENT OR IN THE INSURER'S SERVICE AREA, OR IS ELIGIBLE FOR  
2 OR RECEIVING MEDICAL ASSISTANCE.

3 (C) THE EMPLOYEE APPLIES FOR COVERAGE FOR THE CHILD OR, IF  
4 THE EMPLOYEE FAILS TO APPLY, THE FRIEND OF THE COURT OR CHILD'S  
5 OTHER PARENT THROUGH THE FRIEND OF THE COURT APPLIES FOR COVERAGE  
6 FOR THE CHILD.

7 (2) IF COVERAGE IS AVAILABLE THROUGH THE PARENT'S EMPLOYER,  
8 THE EMPLOYER SHALL WITHHOLD FROM THE EMPLOYEE'S INCOME THE  
9 EMPLOYEE'S SHARE, IF ANY, OF PREMIUMS FOR DEPENDENT HEALTH CARE  
10 COVERAGE NOT TO EXCEED THE AMOUNT ALLOWED UNDER SECTION 8 AND PAY  
11 THAT AMOUNT TO THE INSURER OR PLAN ADMINISTRATOR.

12 (3) AN EMPLOYER SHALL NOT DISENROLL OR ELIMINATE HEALTH CARE  
13 COVERAGE OF A CHILD ELIGIBLE FOR COVERAGE AND ENROLLED UNDER SUB-  
14 SECTION (1) UNLESS THE EMPLOYER IS PROVIDED WITH SATISFACTORY  
15 WRITTEN EVIDENCE THAT 1 OF THE FOLLOWING APPLIES:

16 (A) THE COURT OR ADMINISTRATIVE ORDER REQUIRING HEALTH CARE  
17 COVERAGE IS NO LONGER IN EFFECT.

18 (B) THE CHILD IS OR WILL BE ENROLLED IN COMPARABLE HEALTH  
19 CARE COVERAGE THAT TAKES EFFECT NOT LATER THAN THE EFFECTIVE DATE  
20 OF THE DISENROLLMENT FROM THE EXISTING PLAN.

21 (C) THE EMPLOYER HAS ELIMINATED DEPENDENT HEALTH CARE COVER-  
22 AGE FOR ALL OF ITS EMPLOYEES OR MEMBERS.

23 SEC. 26B. (1) AN ORDER FOR DEPENDENT HEALTH CARE COVERAGE  
24 ENTERED UNDER THIS ACT SHALL INCLUDE THE INFORMATION REQUIRED IN  
25 A QUALIFIED ORDER AS SPECIFIED IN SECTION 609 OF PART 6 OF SUBTI-  
26 TLE B OF TITLE I OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT  
27 OF 1974, PUBLIC LAW 93-406, 107 STAT. 371, 29 U.S.C. 1169, IF THE

1 HEALTH CARE COVERAGE PLAN OF THE INDIVIDUAL WHO IS RESPONSIBLE  
2 FOR PROVIDING A CHILD WITH HEALTH CARE COVERAGE IS SUBJECT TO  
3 THAT ACT.

4 (2) AN ORDER FOR DEPENDENT HEALTH CARE COVERAGE SERVED ON AN  
5 EMPLOYER SHALL DIRECT THE EMPLOYER TO WITHHOLD FROM THE  
6 EMPLOYEE'S INCOME THE EMPLOYEE'S SHARE, IF ANY, OF PREMIUMS FOR  
7 DEPENDENT HEALTH CARE COVERAGE AND PAY THAT AMOUNT TO THE INSURER-  
8 OR PLAN ADMINISTRATOR. THE ORDER SHALL ALSO DIRECT THAT THE  
9 AMOUNT WITHHELD FOR SUPPORT, FEES, AND HEALTH CARE PREMIUMS SHALL  
10 NOT EXCEED THE AMOUNT ALLOWED UNDER SECTION 303(b) OF TITLE III  
11 OF THE CONSUMER CREDIT PROTECTION ACT, PUBLIC LAW 90-321, 15  
12 U.S.C. 1673.

13 (3) AN ORDER FOR DEPENDENT HEALTH CARE COVERAGE UNDER THIS  
14 SECTION MAY BE COMBINED WITH AN ORDER OF INCOME WITHHOLDING UNDER  
15 SECTION 9.

16 SEC. 26C. IF THE COURT MODIFIES AN ORDER FOR HEALTH CARE  
17 COVERAGE THAT MAY AFFECT THE PROVISION OF DEPENDENT HEALTH CARE  
18 COVERAGE, THE OFFICE OF THE FRIEND OF THE COURT SHALL SEND A  
19 NOTICE OF THE MODIFICATION TO THE EMPLOYER, INSURER, OR PLAN  
20 ADMINISTRATOR.

21 SEC. 26D. THE OFFICE OF THE FRIEND OF THE COURT SHALL  
22 NOTIFY THE STATE DEPARTMENT OF SOCIAL SERVICES IF THE OFFICE  
23 IDENTIFIES HEALTH CARE COVERAGE THAT HAS BEEN OBTAINED OR IS  
24 BEING MAINTAINED BY A PARENT FOR A CHILD WHO IS A RECIPIENT OF  
25 PUBLIC ASSISTANCE OR MEDICAL ASSISTANCE. THE NOTICE SHALL  
26 INCLUDE AVAILABLE INFORMATION ON THE NAME AND ADDRESS OF THE  
27 INSURANCE COMPANY, HEALTH CARE ORGANIZATION, OR HEALTH

1 MAINTENANCE ORGANIZATION; THE POLICY, CERTIFICATE, OR CONTRACT  
2 NUMBER; THE EFFECTIVE DATE OF THE COVERAGE; THE NAME AND BIRTH  
3 DATE OF THE INDIVIDUAL FOR WHOSE BENEFIT THE COVERAGE IS MAIN-  
4 TAINED; AND THE NAME AND SOCIAL SECURITY NUMBER OF THE  
5 POLICYHOLDER.