



HOUSE BILL No. 5249

October 12, 1995, Introduced by Reps. Bankes, Crissman, Pitoniak, Freeman, McBryde, Gire, Byl, DeMars and Brater and referred to the Committee on Human Services.

A bill to amend sections 2, 27, 33, and 35 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. 240 of the Public Acts of 1990 and sections 27 and 35 as amended by Act No. 210 of the Public Acts of 1985, being sections 552.602, 552.627, 552.633, and 552.635 of the Michigan Compiled Laws; and to add sections 24a, 26, 26a, 26b, and 26c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2, 27, 33, and 35 of Act No. 295 of the
2 Public Acts of 1982, section 2 as amended by Act No. 240 of the
3 Public Acts of 1990 and sections 27 and 35 as amended by Act
4 No. 210 of the Public Acts of 1985, being sections 552.602,
5 552.627, 552.633, and 552.635 of the Michigan Compiled Laws, are

1 amended and sections 24a, 26, 26a, 26b, and 26c are added to read
2 as follows:

3 Sec. 2. As used in this act:

4 (a) "Employer" means ~~any~~ AN individual, sole proprietor-
5 ship, partnership, association, or private or public corporation,
6 the United States or ~~any~~ A federal agency, this state or ~~any~~
7 A political subdivision of this state, any other state or a
8 political subdivision of another state, or any other legal entity
9 ~~which~~ THAT hires and pays an individual for his or her
10 services.

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

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

15 (i) Commissions, earnings, salaries, wages, and other income
16 due or to be due in the future from his or her employer and suc-
17 cessor employers.

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

22 (iii) ~~Any~~ AN amount of money ~~which~~ THAT is due to the
23 payer under a support order as a debt of any other individual,
24 partnership, association, or private or public corporation, the
25 United States or ~~any~~ A federal agency, this state or ~~any~~ A
26 political subdivision of this state, any other state or a

1 political subdivision of another state, or any other legal entity
2 ~~which~~ THAT is indebted to the payer.

3 (D) "OCCUPATIONAL LICENSE" MEANS A CERTIFICATE, REGISTRA-
4 TION, OR LICENSE ISSUED BY AN OCCUPATIONAL REGULATORY AGENCY THAT
5 IS A NECESSARY PREDICATE TO AN INDIVIDUAL PRACTICING AN OCCUPA-
6 TION, PROFESSION, OR VOCATION OR THAT ALLOWS THE INDIVIDUAL TO
7 USE A SPECIFIC TITLE IN THE PRACTICE OF THE OCCUPATION, PROFES-
8 SION, OR VOCATION.

9 (E) "OCCUPATIONAL REGULATORY AGENCY" MEANS A DEPARTMENT,
10 BUREAU, OR AGENCY OF THIS STATE THAT HAS REGULATORY AUTHORITY
11 OVER AN INDIVIDUAL ISSUED AN OCCUPATIONAL LICENSE.

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

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

19 (H) ~~(f)~~ "Order of income withholding" means an order
20 entered by the circuit court providing for the withholding of a
21 payer's income to enforce a support order pursuant to this act.

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

24 (J) ~~(h)~~ "Political subdivision" means a county, city, vil-
25 lage, township, educational institution, school district, or spe-
26 cial district or authority of the state or of a local unit of
27 government.

1 (K) ~~(i)~~ "Recipient of support" means the following:

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

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

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

9 (l) ~~(j)~~ "Referee" means a person who is designated as a
10 referee pursuant to the friend of the court act.

11 (M) ~~(k)~~ "Source of income" means an employer or successor
12 employer or any other individual or entity that owes or will owe
13 income to the payer.

14 (N) ~~(l)~~ "Support" means either of the following:

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

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

1 (0) ~~(m)~~ "Support order" means any order entered by the
2 circuit court for the payment of support, whether or not a sum
3 certain.

4 SEC. 24A. (1) A PAYER SHALL GIVE TO THE OFFICE OF THE
5 FRIEND OF THE COURT AT THE TIME OF THE INITIATION OF A PROCEEDING
6 ESTABLISHING A SUPPORT OBLIGATION OR AT THE TIME A SUPPORT ORDER
7 IS ENTERED INFORMATION REGARDING THE FOLLOWING:

8 (A) THE HOLDING OF AN OCCUPATIONAL LICENSE ISSUED BY AN
9 OCCUPATIONAL REGULATORY AGENCY.

10 (B) THE HOLDING OF AN OPERATOR'S OR CHAUFFEUR'S LICENSE.

11 (2) A PAYER SHALL IMMEDIATELY GIVE THE OFFICE OF THE FRIEND
12 OF THE COURT NOTICE OF A CHANGE IN HIS OR HER STATUS AS AN INDI-
13 VIDUAL WHOSE OCCUPATION IS LICENSED OR A CHANGE IN HIS OR HER
14 STATUS AS THE HOLDER OF AN OPERATOR'S OR CHAUFFEUR'S LICENSE.

15 SEC. 26. (1) THE OFFICE OF THE FRIEND OF THE COURT MAY SEND
16 TO A PAYER A NOTICE OF INTENT TO ORDER THE SUSPENSION OF THE
17 PAYER'S OCCUPATIONAL LICENSE OR OPERATOR'S OR CHAUFFEUR'S LICENSE
18 IF ALL OF THE FOLLOWING CIRCUMSTANCES ARE TRUE:

19 (A) THE PAYER HAS BEEN ORDERED TO PAY SUPPORT AND HAS FAILED
20 OR REFUSED TO COMPLY WITH THE SUPPORT ORDER, WHICH FAILURE OR
21 REFUSAL HAS RESULTED IN AN ARREARAGE.

22 (B) AN ORDER OF INCOME WITHHOLDING IS NOT AVAILABLE OR HAS
23 NOT BEEN SUCCESSFUL IN COMPELLING COMPLIANCE WITH A SUPPORT
24 ORDER.

25 (C) THE OFFICE OF THE FRIEND OF THE COURT HAS DETERMINED
26 THAT THE PAYER IS THE HOLDER OF AN OCCUPATIONAL LICENSE OR AN
27 OPERATOR'S OR CHAUFFEUR'S LICENSE.

1 (2) THE NOTICE DESCRIBED IN SUBSECTION (1) SHALL CONTAIN THE
2 FOLLOWING INFORMATION:

3 (A) THE AMOUNT OF THE ARREARAGE.

4 (B) THAT THE PAYER'S OCCUPATIONAL LICENSE OR OPERATOR'S OR
5 CHAUFFEUR'S LICENSE MAY BE SUBJECT TO AN ORDER OF SUSPENSION.

6 (C) THAT THE SUSPENSION ORDER WILL BE ENTERED AND SENT TO
7 THE OCCUPATIONAL REGULATORY AGENCY ISSUING THE PAYER'S OCCUPA-
8 TIONAL LICENSE OR THE SECRETARY OF STATE UNLESS THE PAYER
9 RESPONDS BY REQUESTING A HEARING WITHIN 14 DAYS AFTER THE DATE OF
10 MAILING THE NOTICE OR BY PAYING THE ARREARAGE WITHIN 21 DAYS
11 AFTER THE DATE OF MAILING THE NOTICE.

12 (D) THAT AT THE HEARING THE PAYER MAY SUGGEST TO THE COURT A
13 SCHEDULE FOR THE PAYMENT OF THE ARREARAGE.

14 (E) THAT IF THE HEARING IS HELD BEFORE A REFEREE, THE PAYER
15 HAS A RIGHT TO A DE NOVO HEARING BEFORE A CIRCUIT JUDGE.

16 (F) THAT IF THE PAYER BELIEVES THAT THE AMOUNT OF SUPPORT
17 SHOULD BE MODIFIED DUE TO A CHANGE IN CIRCUMSTANCES, THE PAYER
18 MAY FILE A PETITION WITH THE COURT FOR MODIFICATION OF THE SUP-
19 PORT ORDER.

20 SEC. 26A. (1) WITHIN 14 DAYS AFTER THE DATE ON WHICH THE
21 NOTICE DESCRIBED IN SECTION 26 IS MAILED TO THE PAYER, A PAYER TO
22 WHOM NOTICE IS MAILED MAY REQUEST A HEARING REGARDING THE ARREAR-
23 AGE, IN WHICH CASE THE ENTRY OF THE SUSPENSION ORDER SHALL BE
24 DELAYED PENDING THE OUTCOME OF THE HEARING. THE COURT SHALL HOLD
25 A HEARING WITHIN 30 DAYS AFTER THE DATE OF THE PAYER'S REQUEST.

26 (2) IF THE HEARING HELD UNDER SUBSECTION (1) IS HELD BEFORE
27 A REFEREE, EITHER PARTY MAY REQUEST A DE NOVO HEARING AS PROVIDED

1 IN SECTION 7 OF THE FRIEND OF THE COURT ACT, BEING SECTION
2 552.507 OF THE MICHIGAN COMPILED LAWS.

3 (3) IF A PETITION FOR MODIFICATION OF THE SUPPORT ORDER IS
4 FILED BY OR ON BEHALF OF A PAYER AND IS PENDING AT THE DATE
5 SCHEDULED FOR A HEARING UNDER THIS SECTION, THE COURT MAY CONSOL-
6 IDATE THE HEARING UNDER THIS SECTION AND A HEARING ON THE PETI-
7 TION FOR MODIFICATION.

8 (4) IF THE COURT DETERMINES THAT THE PAYER HAS THE CAPACITY
9 TO PAY OUT OF CURRENTLY AVAILABLE RESOURCES ALL OR A PORTION OF
10 THE AMOUNT DUE OR THAT BY THE EXERCISE OF DUE DILIGENCE THE PAYER
11 COULD HAVE THE CAPACITY TO PAY ALL OR SOME PORTION OF THE AMOUNT
12 DUE, THE COURT SHALL ORDER THE PAYMENT OF THE ARREARAGE IN 1 OR
13 MORE SCHEDULED INSTALLMENTS OF A SUM CERTAIN.

14 (5) THE COURT SHALL ORDER A SUSPENSION OF THE PAYER'S OCCU-
15 PATIONAL LICENSE OR OPERATOR'S OR CHAUFFEUR'S LICENSE UNDER
16 EITHER OF THE FOLLOWING CIRCUMSTANCES:

17 (A) THE PAYER HAS FAILED TO REQUEST A HEARING AS PROVIDED IN
18 SUBSECTION (1) WITHIN 14 DAYS AFTER THE NOTICE WAS MAILED AND HAS
19 FAILED TO PAY THE ARREARAGE WITHIN 21 DAYS AFTER THE NOTICE WAS
20 MAILED.

21 (B) THE PAYER HAS FAILED TO COMPLY WITH AN ARREARAGE PAYMENT
22 SCHEDULE ORDERED UNDER THIS SUBSECTION.

23 SEC. 26B. (1) IF THE COURT ORDERS A SUSPENSION OF AN OCCU-
24 PATIONAL LICENSE UNDER SECTION 26A, 33, OR 35, THE ORDER SHALL
25 INDICATE THAT THE OCCUPATIONAL REGULATORY AGENCY SHALL SUSPEND
26 THE OCCUPATIONAL LICENSE 28 DAYS AFTER IT SENDS NOTICE TO THE
27 PAYER OF RECEIPT OF THE SUSPENSION ORDER. THE OFFICE OF THE

1 FRIEND OF THE COURT SHALL SEND A COPY OF THE SUSPENSION ORDER TO
2 THE OCCUPATIONAL REGULATORY AGENCY ISSUING THE OCCUPATIONAL
3 LICENSE.

4 (2) IF THE COURT ORDERS A SUSPENSION OF AN OPERATOR'S OR
5 CHAUFFEUR'S LICENSE UNDER SECTION 26A, 33, OR 35, THE ORDER SHALL
6 INDICATE THAT THE SECRETARY OF STATE SHALL SUSPEND THE OPERATOR'S
7 OR CHAUFFEUR'S LICENSE 28 DAYS AFTER IT SENDS NOTICE TO THE PAYER
8 OF RECEIPT OF THE SUSPENSION ORDER. THE OFFICE OF THE FRIEND OF
9 THE COURT SHALL SEND A COPY OF THE SUSPENSION ORDER TO THE SECRE-
10 TARY OF STATE.

11 (3) AFTER ENTRY OF A SUSPENSION ORDER UNDER SECTION 26A, A
12 PAYER MAY AGREE TO AND THE COURT MAY ORDER A SCHEDULE FOR THE
13 PAYMENT OF THE ARREARAGE. IF THE COURT ORDERS A SCHEDULE FOR THE
14 PAYMENT OF THE ARREARAGE, THE COURT SHALL ENTER AN ORDER RESCIND-
15 ING THE SUSPENSION ORDER, TO BE EFFECTIVE IMMEDIATELY. WITHIN 2
16 BUSINESS DAYS AFTER ENTRY OF THE ORDER RESCINDING THE SUSPENSION
17 ORDER, THE OFFICE OF THE FRIEND OF THE COURT SHALL SEND A COPY OF
18 THE ORDER RESCINDING THE SUSPENSION ORDER TO THE OCCUPATIONAL
19 REGULATORY AGENCY ISSUING THE PAYER'S LICENSE OR TO THE SECRETARY
20 OF STATE.

21 SEC. 26C. THIS ACT DOES NOT PREVENT A SOURCE OF INCOME FROM
22 REFUSING TO EMPLOY A PAYER WHOSE OCCUPATIONAL LICENSE HAS BEEN
23 SUSPENDED PURSUANT TO THE REGULATED OCCUPATION SUPPORT ENFORCE-
24 MENT ACT IF THAT LICENSE IS A NECESSARY PREDICATE TO ENGAGING IN
25 THAT OCCUPATION, VOCATION, OR PROFESSION.

1 Sec. 27. The circuit court may take other enforcement
2 action under applicable laws, including, but not limited to, the
3 following:

4 (a) Chapter 84 of the Revised Statutes of 1846, being sec-
5 tions 552.1 to 552.45 of the Michigan Compiled Laws.

6 (b) Act No. 379 of the Public Acts of 1913, being sections
7 552.151 to 552.155 of the Michigan Compiled Laws.

8 (c) The family support act, Act No. 138 of the Public Acts
9 of 1966, being sections 552.451 to 552.459 of the Michigan
10 Compiled Laws.

11 (d) Section 1701 of the revised judicature act of 1961, Act
12 No. 236 of the Public Acts of 1961, being section 600.1701 of the
13 Michigan Compiled Laws.

14 (e) Act No. 293 of the Public Acts of 1968, being sections
15 722.1 to 722.6 of the Michigan Compiled Laws.

16 (f) The child custody act of 1970, Act No. 91 of the Public
17 Acts of 1970, being sections 722.21 to 722.29 of the Michigan
18 Compiled Laws.

19 (G) THE REGULATED OCCUPATION SUPPORT ENFORCEMENT ACT.

20 Sec. 33. (1) The court may find a payer in contempt if the
21 court finds that the payer is in arrears and if the court is sat-
22 isfied that the payer has the capacity to pay out of currently
23 available resources all or some portion of the amount due under
24 the support order. In the absence of proofs to the contrary
25 introduced by the payer, the court shall presume that the payer
26 has currently available resources equal to 4 weeks of payments
27 under the support order. The court shall not find that the payer

1 has currently available resources of more than 4 weeks of
2 payments without proof of ~~such~~ THOSE resources by the office of
3 the friend of the court or the recipient of support. Upon find-
4 ing a payer in contempt of court under this section, the court
5 may immediately enter 1 of the following orders:

6 (a) Committing the payer to the county jail.

7 (b) Committing the payer to the county jail with the privi-
8 lege of leaving the jail, during such hours as the court deter-
9 mines and under such supervision as the court considers neces-
10 sary, for the purpose of allowing the payer to go to and return
11 from his or her place of employment.

12 (c) Committing the payer to any penal or correctional facil-
13 ity in this state ~~which~~ THAT is not operated by the state
14 department of corrections.

15 (D) IF THE PAYER IS THE HOLDER OF AN OCCUPATIONAL LICENSE OR
16 AN OPERATOR'S OR CHAUFFEUR'S LICENSE, CONDITIONING THE CONTINUA-
17 TION OF THE PAYER'S OCCUPATIONAL OR OPERATOR'S OR CHAUFFEUR'S
18 LICENSE UPON COMPLIANCE WITH A COURT ORDER FOR PAYMENT OF THE
19 ARREARAGE IN 1 OR MORE SCHEDULED INSTALLMENTS OF A SUM CERTAIN.

20 (2) IF THE COURT ENTERS AN ORDER UNDER SUBSECTION (1)(D) AND
21 THE PAYER FAILS TO COMPLY WITH THE ARREARAGE PAYMENT SCHEDULE,
22 THE COURT SHALL ORDER A SUSPENSION OF THE PAYER'S OCCUPATIONAL
23 LICENSE OR OPERATOR'S OR CHAUFFEUR'S LICENSE AND PROCEED UNDER
24 SECTION 26B.

25 Sec. 35. (1) The court may find a payer in contempt if the
26 court finds that the payer is in arrears and if the court is
27 satisfied that by the exercise of diligence the payer could have

1 the capacity to pay all or some portion of the amount due under
2 the support order and has failed or refused to do so.

3 (2) Upon finding a payer in contempt of court under this
4 section, the court may immediately enter an order ~~committing~~
5 DOING EITHER OF THE FOLLOWING:

6 (A) COMMITTING the payer to the county jail with the privi-
7 lege of leaving the jail, during ~~such~~ THOSE hours as the court
8 determines and under ~~such~~ THE supervision as the court consid-
9 ers necessary, for the purpose of allowing the payer to go to and
10 return from his or her place of employment or, if the person
11 wishes to seek employment, to seek employment.

12 (B) IF THE PAYER IS THE HOLDER OF AN OCCUPATIONAL LICENSE OR
13 AN OPERATOR'S OR CHAUFFEUR'S LICENSE, CONDITIONING THE CONTINUA-
14 TION OF THE PAYER'S OCCUPATIONAL OR OPERATOR'S OR CHAUFFEUR'S
15 LICENSE UPON COMPLIANCE WITH A COURT ORDER FOR PAYMENT OF THE
16 ARREARAGE IN 1 OR MORE SCHEDULED INSTALLMENTS OF A SUM CERTAIN.

17 (3) Notwithstanding the length of commitment imposed under
18 this section, an unemployed payer committed to a county jail
19 under this section who finds employment shall be released from
20 jail if either of the following applies:

21 (a) The payer is self-employed and has completed 2 consecu-
22 tive weeks at his or her employment.

23 (b) The payer is employed and has completed 2 consecutive
24 weeks at his or her employment and an order of income withholding
25 is effective.

26 (4) IF THE COURT ENTERS AN ORDER UNDER SUBSECTION (2)(B) AND
27 THE PAYER FAILS TO COMPLY WITH THE ARREARAGE PAYMENT SCHEDULE,

1 THE COURT SHALL ORDER A SUSPENSION OF THE PAYER'S OCCUPATIONAL
2 LICENSE OR OPERATOR'S OR CHAUFFEUR'S LICENSE AND PROCEED UNDER
3 SECTION 26B.

4 Section 2. This amendatory act shall not take effect unless
5 all of the following bills of the 88th Legislature are enacted
6 into law:

7 (a) Senate Bill No. _____ or House Bill No. 5250 (request
8 no. 01876'95).

9 (b) Senate Bill No. _____ or House Bill No. 5248 (request
10 no. 01876'95 b).

11 (c) Senate Bill No. _____ or House Bill No. 5247 (request
12 no. 01876'95 c).