

HOUSE BILL No. 5438

November 1, 2001, Introduced by Reps. Hart, Pestka, Vander Veen, Birkholz, Hummel and Lemmons and referred to the Committee on Family and Children Services.

A bill to amend 1966 PA 138, entitled "The family support act," by amending the title and sections 1, 1a, 2, and 5 (MCL 552.451, 552.451a, 552.452, and 552.455), the title and sections 1 and 1a as amended by 1990 PA 237, section 2 as amended by 2001 PA 111, and section 5 as amended by 1996 PA 5.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to confer jurisdiction upon the circuit ~~courts~~

3 COURT to order and enforce the payment of money for the support,

4 in certain cases, of parents having physical custody of minor

5 children or children who have reached the age of majority and of

6 minor children or children who have reached the age of majority

7 by noncustodial parents; to provide for the termination of the

8 effectiveness of the orders; TO AUTHORIZE PARENTING TIME ORDERS;

1 and to provide for the payment of fees and assessment of costs in
2 those cases.

3 Sec. 1. ~~Any~~ A married parent who has a minor child or
4 children living with him or her, ~~and~~ who is living separate and
5 away from his or her spouse who is the noncustodial parent of the
6 child or children, and who is refused financial assistance by the
7 noncustodial parent to provide necessary shelter, food, care, and
8 clothing for the child or children, if the spouse is of suffi-
9 cient financial ability to provide ~~such~~ THAT assistance, may
10 ~~complain to~~ FILE AN ACTION IN the circuit court for the county
11 where either parent resides for an order for support for himself
12 or herself and the minor child or children. Subject to section
13 ~~it~~ 2, the parent may also complain to the circuit court for
14 support for a child or children after they reach 18 years of
15 age. The proceedings shall be commenced by the filing of a com-
16 plaint verified by the petitioner and by issuance of a summons
17 ~~which~~ THAT shall be personally served upon the noncustodial
18 parent of the children and spouse of the petitioner. A complaint
19 shall not be filed ~~nor shall any~~ AND A summons ~~issue~~ SHALL
20 NOT BE ISSUED if divorce or separate maintenance proceedings are
21 then pending between the petitioner and his or her spouse.

22 Sec. 1a. A custodial parent or guardian of a minor child or
23 children or a child or children who have reached 18 years of age
24 may proceed in the same manner, and under the same circumstances
25 as provided in section 1, against the noncustodial parent for the
26 support of the child or children. The order of support shall
27 provide only for the support of the child or children, and the

1 burden of proof shall be the same as provided in section 2. This
2 section applies only to legitimate, legitimated, and lawfully
3 adopted minor children and, subject to section ~~1e~~ 2, children
4 after they reach 18 years of age.

5 Sec. 2. (1) Upon the hearing of the complaint, in the
6 manner of a motion, the court may enter an order as it determines
7 proper for the support of the petitioner and the minor child or
8 children of the parties as prescribed in section 5 of the support
9 and parenting time enforcement act, 1982 PA 295, MCL 552.605.
10 The order shall provide that payment shall be made to the friend
11 of the court or the state disbursement unit. If the parent com-
12 plained of opposes the entry of the order upon the ground that he
13 or she is without sufficient financial ability to provide neces-
14 sary shelter, food, care, clothing, and other support for his or
15 her spouse and child or children, the burden of proving this lack
16 of ability is on the parent against whom the complaint is made.
17 The order shall state in separate paragraphs the amount of sup-
18 port for the petitioner until the further order of the court, and
19 the amount of support for each child until each child reaches
20 18 years of age or until the further order of the court. Subject
21 to section 5b of the support and parenting time enforcement act,
22 1982 PA 295, MCL 552.605b, the court may also order support for
23 the child after the child reaches 18 years of age, or until the
24 further order of the court.

25 (2) ON A MOTION BY THE NONCUSTODIAL PARENT, THE COURT SHALL
26 CONSIDER ENTERING AN ORDER FOR PARENTING TIME WITH THE
27 NONCUSTODIAL PARENT. IN DETERMINING PARENTING TIME UNDER THIS

1 SECTION, THE COURT SHALL USE THE SAME STANDARDS, CRITERIA, AND
2 PROCEDURES AS FOR A PARENTING TIME DETERMINATION UNDER THE CHILD
3 CUSTODY ACT OF 1970, 1970 PA 91, MCL 722.21 TO 722.31. IF THERE
4 IS A DISPUTE BETWEEN THE PARTIES CONCERNING PARENTING TIME, THE
5 COURT SHALL IMMEDIATELY ENTER AN ORDER THAT ESTABLISHES SUPPORT
6 AND TEMPORARILY ESTABLISHES PARENTING TIME WITH THE CHILD.
7 BEFORE A HEARING ON THE DISPUTE OR RESOLUTION OF THE DISPUTE
8 WITHOUT A HEARING, THE COURT MAY ALSO REFER THE MATTER TO THE
9 FRIEND OF THE COURT FOR A REPORT AND RECOMMENDATION AS PROVIDED
10 IN SECTION 5 OF THE FRIEND OF THE COURT ACT, 1982 PA 294, MCL
11 552.505. IN A DISPUTE REGARDING PARENTING TIME, THE PROSECUTING
12 ATTORNEY, AN ATTORNEY APPOINTED BY THE COUNTY, OR AN ATTORNEY
13 APPOINTED BY THE COURT UNDER SECTION 4 OF THE PATERNITY ACT, 1956
14 PA 205, MCL 722.714, SHALL NOT BE REQUIRED TO REPRESENT EITHER
15 PARTY REGARDING THAT DISPUTE.

16 (3) ~~(2)~~ A support order entered under this section is
17 enforceable as provided in the support and parenting time
18 enforcement act, 1982 PA 295, MCL 552.601 to 552.650. If this
19 act contains a specific provision regarding the contents or
20 enforcement of a child support order that conflicts with a provi-
21 sion in the support and parenting time enforcement act, 1982
22 PA 295, MCL 552.601 to 552.650, this act controls in regard to
23 that provision.

24 Sec. 5. (1) Subject to section ~~2(2) or (3)~~ 5 OF THE SUP-
25 PORT AND PARENTING TIME ENFORCEMENT ACT, 1982 PA 295, MCL
26 552.605, an order entered under section 2 may be modified by the
27 court upon proper application to the court and due notice to the

1 opposite party. If ~~any~~ A judgment of divorce or of separate
2 maintenance is entered by ~~any~~ A court having personal jurisdic-
3 tion over the parties, ~~any~~ AN order entered ~~pursuant to the~~
4 ~~provisions of this act becomes~~ UNDER THIS ACT IS null and void
5 upon the effective date of the judgment.

6 (2) Beginning January 1, 1991, each support order modified
7 by the court shall provide that each party shall keep the office
8 of the friend of the court informed of both of the following:

9 (a) The name and address of his or her current source of
10 income. As used in this subdivision, "source of income" means
11 that term as defined in section 2 of the support and parenting
12 time enforcement act, ~~Act No. 295 of the Public Acts of 1982,~~
13 ~~being section 552.602 of the Michigan Compiled Laws~~ 1982 PA 295,
14 MCL 552.602.

15 (b) Any health care coverage that is available to him or her
16 as a benefit of employment or that is maintained by him or her;
17 the name of the insurance company, nonprofit health care corpora-
18 tion, or health maintenance organization; the policy, certifi-
19 cate, or contract number; and the names and birth dates of the
20 persons for whose benefit he or she maintains health care cover-
21 age under the policy, certificate, or contract.