

# HOUSE BILL No. 4792

June 3, 2003, Introduced by Reps. Garfield, Casperson, Brandenburg, Acciavatti, Tabor, Pastor, LaJoy, Drolet, Voorhees, Vander Veen, Howell and Lipsey and referred to the Committee on Judiciary.

A bill to amend 1982 PA 295, entitled  
"Support and parenting time enforcement act,"  
(MCL 552.601 to 552.650) by adding section 5e.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 5e. (1) A payer who has an arrearage under a support  
2 order may file a motion with the circuit court for a payment plan  
3 to pay arrearages and to discharge or abate arrearages. The  
4 court shall approve the payment plan after notice and a hearing  
5 if it finds that the plan is in the best interest of the parties  
6 and children and that either of the following applies:

7       (a) The arrearage is owed to an individual payee and the  
8 payee has consented to entry of the order under circumstances  
9 that satisfy the court that the payee is not acting under fear,  
10 coercion, or duress.

11       (b) The arrearage is owed to this state or a political

1 subdivision of this state, and the payer establishes the  
2 following:

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

6 (ii) The payer has no present ability, or ability in the  
7 foreseeable future, to pay the arrearage absent a payment plan.

8 (iii) The payment plan will pay a reasonable portion of the  
9 arrearage over a reasonable period of time in accordance with the  
10 payer's current ability to pay.

11 (iv) The office of child support has been served with a copy  
12 of the motion.

13 (2) If, after notice and hearing, the court finds that the  
14 payer has completed the payment plan, the court shall enter an  
15 order discharging the remaining arrearage, if any. If the court  
16 finds that the payer has substantially completed the payment  
17 plan, the court may enter an order granting relief appropriate to  
18 the circumstances of the case.

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

23 (4) A payment plan under subsection (1) shall provide that  
24 arrearages subject to the payment plan may be reinstated upon  
25 motion and hearing for good cause shown at any time during the  
26 pendency of the payment plan. Good cause includes, but is not  
27 limited to, the payer receiving property such as lottery

1 proceeds, other winnings, or an inheritance sufficient to pay the  
2 amount discharged.

3 (5) A court may require conditions in the payment plan in  
4 addition to the payment of support that the court determines are  
5 in the best interests of a child, including, but not limited to,  
6 any of the following:

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

8 (b) Drug and alcohol counseling.

9 (c) Anger management classes.

10 (d) Participation in a work program.

11 (e) Counseling.

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

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

17 (7) The department shall designate an office to receive  
18 service of a motion under this section. The department is  
19 considered to have consented to the payer's payment plan if,  
20 within 56 days after service, it files a written consent in  
21 answer to the motion or fails either to file an answer to the  
22 motion or appear at the hearing in opposition to the motion. The  
23 friend of the court office shall provide case history information  
24 to the department to assist it in determining how it will respond  
25 to the plan, but the final decision to accept or oppose the  
26 payment plan is the department's alone.