THE FAMILY SUPPORT ACT

Act 138 of 1966

AN ACT to confer jurisdiction upon the circuit courts to order and enforce the payment of money for the support, in certain cases, of parents having physical custody of minor children or children who have reached the age of majority and of minor children or children who have reached the age of majority by noncustodial parents and to enter orders governing custody and parenting time for those children; to provide for the termination of the effectiveness of the support orders; and to provide for the payment of fees and assessment of costs in those cases.

History: 1966, Act 138, Eff. Mar. 10, 1967 ;-- Am. 1970, Act 153, Imd. Eff. Aug. 1, 1970 ;-- Am. 1983, Act 196, Imd. Eff. Nov. 7, 1983 ;-- Am. 1990, Act 237, Imd. Eff. Oct. 10, 1990 ;-- Am. 2002, Act 574, Eff. Dec. 1, 2002

The People of the State of Michigan enact:

CAUTION! This document is from an archive and may contain outdated information

552.451 Proceedings for support of custodial parent and children; complaint; service; prohibition.

Sec. 1.

A married parent who has a minor child or children living with him or her and who is living separate and away from his or her spouse who is the noncustodial parent of the child or children, and who is refused financial assistance by the noncustodial parent to provide necessary shelter, food, care, and clothing for the child or children, if the spouse is of sufficient financial ability to provide that assistance, may complain to the circuit court for the county where either parent resides for an order for support for himself or herself and the minor child or children. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, the parent may also complain to the circuit court for support for a child or children after they reach 18 years of age. The proceedings shall be commenced by the filing of a complaint verified by the petitioner and by issuance of a summons that shall be served upon the noncustodial parent of the children and spouse of the petitioner in the manner provided by court rules for the service of process in civil actions. A complaint shall not be filed and a summons shall not be issued if divorce or separate maintenance proceedings are then pending between the petitioner and his or her spouse.

History: 1966, Act 138, Eff. Mar. 10, 1967 ;-- Am. 1983, Act 196, Imd. Eff. Nov. 7, 1983 ;-- Am. 1990, Act 237, Imd. Eff. Oct. 10, 1990 ;-- Am. 2002, Act 8, Imd. Eff. Feb. 14, 2002 ;-- Am. 2009, Act 236, Imd. Eff. Jan. 8, 2010

552.451a Proceedings for support of children; support order; burden of proof; applicability of section.

Sec. 1a.

A custodial parent or guardian of a minor child or children or a child or children who have reached 18 years of age may proceed in the same manner, and under the same circumstances as provided in section 1, against the noncustodial parent for the support of the child or children. The order of support shall provide only for the support of the child or children, and the burden of proof shall be the same as provided in section 2. This section applies only to legitimate, legitimated, and lawfully adopted minor children and, subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, children after they reach 18 years of age.

History: Add. 1970, Act 153, Imd. Eff. Aug. 1, 1970 ;-- Am. 1983, Act 196, Imd. Eff. Nov. 7, 1983 ;-- Am. 1990, Act 237, Imd. Eff. Oct. 10, 1990 ;-- Am. 2002, Act 8, Imd. Eff. Feb. 14, 2002

552.451b Proceedings for support of custodial parent and children being supported by public assistance; burden of proof.

Sec. 1b.

The director of social services or his or her designated representative or the director of the county department of social services of the county where the custodial parent or minor child or children or child or children who have reached 18 years of age reside or the director's designated representative may proceed in the same manner and under the same circumstances as provided in sections 1 and 1a against the noncustodial parent for the support of the custodial parent and minor child or children or child or children who have reached 18 years of age if the custodial parent and minor child or children or child or children who have reached 18 years of age or any of them are being supported, in whole or in part, by public assistance under the social welfare act, Act No. 280 of the Public Acts of 1939, as amended, being sections 400.1 to 400.121 of the Michigan Compiled Laws. The burden of proof shall be the same as provided in section 2.

History: Add. 1971, Act 195, Imd. Eff. Dec. 20, 1971 ;-- Am. 1983, Act 196, Imd. Eff. Nov. 7, 1983 ;-- Am. 1990, Act 237, Imd. Eff. Oct. 10, 1990

CAUTION! This document is from an archive and may contain outdated information.

552.451c Repealed. 2001, Act 111, Eff. Sept. 30, 2001.

Compiler's Notes: The repealed section pertained to support for child after child reaches 18 years of age.

552.452 Hearing; order; contents; burden of proving lack of ability to provide support; amount; medical and other expenses; enforcement of order; custody and parenting time.

Sec. 2.

(1) Upon the hearing of the complaint, in the manner of a motion, the court may enter an order as it determines proper for the support of the petitioner and the minor child or children of the parties as prescribed in section 5 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605. The order shall provide that payment shall be made to the friend of the court or the state disbursement unit. If the parent complained of opposes the entry of the order upon the ground that he or she is without sufficient financial ability to provide necessary shelter, food, care, clothing, and other support for his or her spouse and child or children, the burden of proving this lack of ability is on the parent against whom the complaint is made. The order shall state in separate paragraphs the amount of support for the petitioner until the further order of the court, and the amount of support for each child until each child reaches 18 years of age or until the further order of the court. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, the court may also order support for the child after the child reaches 18 years of age, or until the further order of the court. Support ordered may include expenses of medical, dental, and other health care, child care, and education, necessary medical expenses incurred in connection with the mother's pregnancy or the birth of the child, and the expense of genetic testing. A child support obligation is only retroactive to the date that the complaint for support was filed unless any of the following circumstances exist:

(a) The defendant was avoiding service of process.

(b) The defendant threatened or coerced through domestic violence or other means the complainant not to file a proceeding under this act.

(c) The defendant otherwise delayed the imposition of a support obligation.

(2) The court shall order medical expenses incurred in connection with the mother's pregnancy or the birth of the child under this section in the same manner as medical expenses are ordered under section 2 of the paternity act, 1956 PA 205, MCL 722.712, and shall include in its order provisions as required by that section for orders entered under that act.

(3) A support order entered under this section is enforceable as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650. If this act contains a specific provision regarding the contents or enforcement of a child support order that conflicts with a provision in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act controls in regard to that provision.

(4) If there is no dispute regarding a child's custody, the court shall include in an order for support issued under this act specific provisions governing custody of and parenting time for the child in accordance with the child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31. If there is a dispute regarding custody of and parenting time for the child, the court shall include in an order for support issued under this act specific temporary provisions governing custody of and parenting time for the child. Pending a hearing on or other resolution of the dispute, the court may refer the matter to the office of the friend of the court for a written report and recommendation as provided in section 5 of the friend of the court act, 1982 PA 294, MCL 552.505. In a dispute regarding custody of and parenting time for a child, the prosecuting attorney is not required to represent either party regarding the dispute.

History: 1966, Act 138, Eff. Mar. 10, 1967 ;-- Am. 1967, Act 75, Eff. Nov. 2, 1967 ;-- Am. 1970, Act 153, Imd. Eff. Aug. 1, 1970 ;-- Am. 1983, Act 196, Imd. Eff. Nov. 7, 1983 ;-- Am. 1985, Act 212, Eff. Mar. 1, 1986 ;-- Am. 1989, Act 276, Imd. Eff. Dec. 26, 1989 ;-- Am. 1990, Act 237, Imd. Eff. Oct. 10, 1990 ;-- Am. 1990, Act 292, Imd. Eff. Dec. 14, 1990 ;-- Am. 1996, Act 5, Eff. June 1, 1996 ;-- Am. 1999, Act 158, Imd. Eff. Nov. 3, 1999 ;-- Am. 2001, Act 111, Eff. Sept. 30, 2001 ;-- Am. 2002, Act 574, Eff. Dec. 1, 2002 ;-- Am. 2009, Act 236, Imd. Eff. Jan. 8, 2010

CAUTION! This document is from an archive and may contain outdated information.

552.453 Transmitting order for support to friend of court.

Sec. 3.

Upon the entry of any order for support under this act, a copy of the order shall be transmitted to the friend of the court of the county in which the order was entered.

History: 1966, Act 138, Eff. Mar. 10, 1967 ;-- Am. 1985, Act 212, Eff. Mar. 1, 1986

552.454 Prosecuting attorney as attorney for petitioner; agreement to transfer prosecutor's responsibilities; conduct of proceeding on behalf of state; utilization of child support formula as guideline; transmittal of payments to department of human services.

Sec. 4.

(1) If the county department of human services where the custodial parent or guardian of the minor child or children or the child or children who have reached 18 years of age resides determines the custodial parent, the minor child or children, the child or children who have reached 18 years of age, or any of them to be eligible for public or medical assistance, or if a complaint is being filed under section 1b, the prosecuting attorney shall act as the attorney for the petitioner.

(2) The prosecuting attorney and the department of human services may enter into an agreement to transfer the prosecutor's responsibilities under this act to 1 of the following:

(a) The friend of the court, with the approval of the chief judge of the circuit court.

(b) An attorney employed or contracted by the county under section 1 of 1941 PA 14, MCL 49.71.

(c) An attorney employed by, or under contract with, the department of human services.

(3) A proceeding under this section is conducted on behalf of the state and not as the attorney for any other party.

(4) The child support formula developed under section 19 of the friend of the court act, 1982 PA 294, MCL 552.519, shall be used as a guideline in petitioning for child support. Upon certification by the department of human services that the custodial parent and minor child or children or child or children who have reached 18 years of age are receiving public assistance, a payment received by the friend of the court or the state disbursement unit for the support of the custodial parent and minor child or children or child or children who have reached 18 years of age shall be transmitted to the department of human services.

History: 1966, Act 138, Eff. Mar. 10, 1967 ;-- Am. 1970, Act 153, Imd. Eff. Aug. 1, 1970 ;-- Am. 1971, Act 195, Imd. Eff. Dec. 20, 1971 ;-- Am. 1983, Act 196, Imd. Eff. Nov. 7, 1983 ;-- Am. 1985, Act 212, Eff. Mar. 1, 1986 ;-- Am. 1990, Act 237, Imd. Eff. Oct. 10, 1990 ;-- Am. 1990, Act 292, Imd. Eff. Dec. 14, 1990 ;-- Am. 1999, Act 158, Imd. Eff. Nov. 3, 1999 ;-- Am. 2014, Act 369, Eff. Mar. 17, 2015

552.455 Modification of order; application and notice; order void upon entry of judgment of divorce or separate maintenance.

Sec. 5.

An order entered under section 2 may be modified by the court upon proper application to the court and due notice to the opposite party. If a judgment of divorce or of separate maintenance is entered by a court having personal jurisdiction over the parties, an order entered under this act is null and void upon the effective date of the judgment.

History: 1966, Act 138, Eff. Mar. 10, 1967 ;-- Am. 1990, Act 237, Imd. Eff. Oct. 10, 1990 ;-- Am. 1990, Act 292, Imd. Eff. Dec. 14, 1990 ;-- Am. 1996, Act 5, Eff. June 1, 1996 ;-- Am. 2002, Act 8, Imd. Eff. Feb. 14, 2002

CAUTION! This document is from an archive and may contain outdated information.

552.456 Warrant for criminal nonsupport; testimony.

Sec. 6.

A warrant for criminal nonsupport shall not issue or be enforced against any parent who is a party to the proceedings provided for in this act if the parent complies with an order entered by a court as provided in this act. The parent's testimony, if any, in proceedings under this act is not admissible in such criminal proceedings.

History: 1966, Act 138, Eff. Mar. 10, 1967 ;-- Am. 1970, Act 153, Imd. Eff. Aug. 1, 1970 ;-- Am. 1983, Act 196, Imd. Eff. Nov. 7, 1983

552.457 Repealed. 2009, Act 236, Imd. Eff. Jan. 8, 2010.

Compiler's Notes: The repealed section pertained to reimbursement of county for cost of enforcing support or parenting time orders.

552.458 Fees and costs.

Sec. 8.

No filing, order or stenographer's fees shall be required for an action or proceedings under this act, but the court may assess any such costs, service costs and attorney fees against the defendant in the order of support or any modification thereof.

History: Add. 1970, Act 153, Imd. Eff. Aug. 1, 1970

552.458a Centralized receipt and disbursement of support.

Sec. 8a.

The SDU is responsible for the centralized receipt and disbursement of support. An office of the friend of the

court may continue to receive support and fees.

History: Add. 1999, Act 158, Imd. Eff. Nov. 3, 1999 ;-- Am. 2002, Act 574, Eff. Dec. 1, 2002 ;-- Am. 2009, Act 236, Imd. Eff. Jan. 8, 2010

552.459 Short title; “state disbursement unit” or “SDU” defined.

Sec. 9.

(1) This act shall be known and may be cited as "the family support act".

(2) As used in this act, "state disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

History: Add. 1970, Act 153, Imd. Eff. Aug. 1, 1970 ;-- Am. 1999, Act 158, Imd. Eff. Nov. 3, 1999

CAUTION! This document is from an archive and may contain outdated information.