

Act No. 112
Public Acts of 1998
Approved by the Governor
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Senator Gougeon

ENROLLED SENATE BILL No. 804

AN ACT to amend 1971 PA 174, entitled "An act to create the office of child support; and to prescribe certain powers and duties of the office, certain public agencies, and certain employers and former employers," by amending the title and sections 1, 2, 3, 3a, 4, and 5 (MCL 400.231, 400.232, 400.233, 400.233a, 400.234, and 400.235), the title and sections 1, 2, 3, and 5 as amended by 1985 PA 209 and section 3a as amended by 1996 PA 3, and by adding sections 4a, 4b, and 4c.

The People of the State of Michigan enact:

TITLE

An act to create the office of child support; and to prescribe certain powers and duties of the office, certain public and private agencies, and certain employers and former employers.

Sec. 1. As used in this act:

(a) "Account" means any of the following:

- (i) A demand deposit account.
- (ii) A draft account.
- (iii) A checking account.
- (iv) A negotiable order of withdrawal account.
- (v) A share account.
- (vi) A savings account.
- (vii) A time savings account.
- (viii) A mutual fund account.
- (ix) A securities brokerage account.
- (x) A money market account.
- (xi) A retail investment account.

(b) "Account" does not mean any of the following:

- (i) A trust.
- (ii) An annuity.
- (iii) A qualified individual retirement account.
- (iv) An account covered by the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829.
- (v) A pension or retirement plan.
- (vi) An insurance policy.

(c) "Address" means the primary address shown on the records of a financial institution used by the financial institution to contact an account holder.

(d) "Adult responsible for the child" means a parent, relative who has physically cared for the child, putative father, or current or former guardian of a child, including an emancipated or adult child.

(e) "Current employment" means employment within 1 year before a friend of the court request for information.

(f) "Department" means the family independence agency.

(g) "Financial asset" means stock, a bond, a money market fund, a deposit, an account, or a similar instrument.

(h) "Financial institution" means any of the following:

(i) A state or national bank.

(ii) A state or federally chartered savings and loan association.

(iii) A state or federally chartered savings bank.

(iv) A state or federally chartered credit union.

(v) An insurance company.

(vi) An entity that offers any of the following to a resident of this state:

(A) A mutual fund account.

(B) A securities brokerage account.

(C) A money market account.

(D) A retail investment account.

(vii) An entity regulated by the securities and exchange commission that collects funds from the public.

(viii) An entity that is a member of the national association of securities dealers and that collects funds from the public.

(ix) An entity that collects funds from the public.

(i) "Office" means the office of child support.

Sec. 2. The office of child support is established in the department.

Sec. 3. The office shall do all of the following:

(a) Serve as a state agency authorized to administer part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 660 and 663 to 669b.

(b) Assist any governmental agency or department in locating an adult responsible for the child for any of the following purposes:

(i) To establish parentage.

(ii) To establish, set the amount of, modify, or enforce support obligations.

(iii) To disburse support receipts.

(iv) To make or enforce child custody or parenting time orders.

(c) Coordinate any activity on a state level in a search for an adult responsible for the child.

(d) Obtain information that directly relates to the identity or location of an adult responsible for the child.

(e) Serve as the information agency as provided in the revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183, and uniform interstate family support act, 1996 PA 310, MCL 552.1101 to 552.1901.

(f) Develop guidelines for coordinating activities of any governmental department, board, commission, bureau, agency, or council, or any public or private agency, in providing information necessary for the location of an adult responsible for the child.

(g) Develop, administer, and coordinate with the state and federal departments of treasury a procedure for offsetting the state tax refunds and federal income tax refunds of a parent who is obligated to support a child and who owes past due support. The procedure shall include a guideline that the office submit to the state department of treasury, not later than November 15 of each year, all requests for the offset of state tax refunds claimed on returns filed or to be filed for that tax year.

(h) Develop and implement a statewide information system to facilitate the establishment and enforcement of child support obligations.

(i) Publicize through regular and frequent, nonsexist public service announcements the availability of support establishment and enforcement services.

(j) Develop and implement in cooperation with financial institutions a data matching and lien and levy system to identify assets of and to facilitate the collection of support from the assets of individuals who have an account at a financial institution and who are obligated to pay support as provided in this act.

Sec. 3a. (1) Upon receipt of a request from the office of the friend of the court under section 24 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.624, the office of child support shall initiate offset proceedings against the state tax refunds and federal income tax refunds of a parent who is obligated to support a child and who owes past due support.

(2) The office shall send to a parent who is the subject of a request under subsection (1) advance written notice of the proposed offset. The notice shall inform the parent of the opportunity to contest the offset of his or her state income tax refund on the grounds that the offset is not proper because of a mistake of fact concerning the amount of overdue support or the identity of the parent.

(3) The office shall provide for the prompt reimbursement of an amount withheld in error or an amount found to exceed the amount of overdue support.

Sec. 4. (1) Upon request of the office or the state agency of another state that administers a program under part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 660 and 663 to 669b, a governmental department, board, commission, bureau, agency, or council; a public or private entity; or a financial institution shall provide any information or record that assists in implementing this act. The information and records include, but are not limited to, all of the following:

(a) Information on the current employment, compensation, and benefits of an individual employed as an employee or an independent contractor of the entity including a for-profit, nonprofit, and governmental employer.

(b) A state or local government agency record including, but not limited to, all of the following:

(i) Vital statistics.

(ii) State or local tax and revenue records including information on residence address, employer, income, and assets.

(iii) A real and titled personal property record.

(iv) An occupational, professional, recreational, or sporting license record.

(v) A record on the ownership and control of a corporation, partnership, or other business entity.

(vi) An employment security agency record.

(vii) A record of an agency administering a public assistance program.

(viii) A motor vehicle record.

(ix) A corrections record.

(x) A worker's compensation record.

(c) Information from the law enforcement information network.

(d) Information from a financial institution as provided in section 4a.

(e) A public utility or cable television company record.

(2) The director of the office or his or her designee may issue an administrative subpoena to require an entity to furnish information or a record in the possession of the entity that pertains to a parent or putative father who is or was employed by or an independent contractor of the entity and that is demanded by the office for the purpose of administering or providing services pursuant to part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 660 and 663 to 669b. The entity's officers or employees shall furnish the information or record within 15 days after the subpoena is received by the entity. This subsection does not abrogate a confidentiality privilege established by law.

(3) An entity is not liable under a federal or state law to any person for a disclosure of information to the office or the designee of the office under this act or for another action taken in good faith to comply with this act.

(4) A governmental department, board, commission, bureau, agency, or council or any public or private entity or financial institution is not liable for a wrongful disclosure of information or records if the governmental department, board, commission, bureau, agency, or council or public or private entity or financial institution acted in good faith. A governmental department, board, commission, bureau, agency, or council or any public or private entity or financial institution is liable for a negligent wrongful disclosure of information or records in an amount of the damages incurred or \$1,000.00, whichever is greater. A governmental department, board, commission, bureau, agency, or council or any public or private entity or financial institution is liable for a willful wrongful disclosure of information or records in an amount of 3 times the damages incurred or \$3,000.00, whichever is greater, together with all costs and reasonable attorney's fees incurred. For the purposes of this subsection, each violation gives rise to a separate cause of action for which separate damages may be awarded. For the purposes of this subsection, damages include reasonable attorney fees.

(5) If an entity does not comply with a subpoena or request for information or records, the director of the office or his or her designee may petition the circuit court in the county in which the inquiry is being made to require the production of books, papers, and documents. In the case of refusal to comply with a subpoena or request for information, the circuit court may issue an order requiring the person to appear and to produce books, records, and papers. The court may punish a failure to comply with the court order as contempt.

Sec. 4a. (1) The office shall enter into an agreement with financial institutions doing business in this state to collect the name, address, social security number, and account numbers for each parent who maintains an account at the financial institution and who owes past due child support as identified by the state.

(2) Not more than once each calendar quarter, the office may request from each financial institution the name, address, social security number, and account number for each person listed in the request who maintains an account at the financial institution.

(3) The office's request under subsection (2) shall contain the name and only 1 social security number for each person listed in the request.

(4) Except as otherwise provided in this subsection, the office shall remove an individual's name and social security number from a request to a financial institution under subsection (2) if the individual's name or social security number was on the requests to the financial institution in the 2 immediately preceding quarters and the financial institution did not find a match for that name or social security number for either of those requests. The office may include the individual's name and social security number on a request to the financial institution under subsection (2) in the succeeding quarter, if the office believes that the individual has opened an account subsequent to the 2 successive quarters in which a match was not found.

(5) All requests made by the office under subsection (2) shall be in machine readable form unless the financial institution expressly asks the office to submit the request in writing in which case the office shall submit the request and all subsequent requests to the financial institution in writing until the financial institution asks the office to submit the request in machine readable form after which time the office shall submit the request in machine readable form.

(6) Except as provided in subsection (10) or (12), the financial institution shall furnish the information in a machine readable form to the office unless the financial institution asked the office to submit the request in writing, in which case the financial institution may furnish the information in writing or in machine readable form. The financial institution shall furnish the information to the office within 45 days after receipt of the request from the office. A financial institution that files reports under this subsection is not required to comply with subsection (10).

(7) The financial institution may base its search of account records solely on the social security number that is provided for each person included in the request from the office.

(8) A financial institution may respond to the office that the name or the social security number, or both, that were contained in the office's request do not correspond to the records of the financial institution.

(9) A financial institution may choose only to furnish information on an account that has a balance of more than \$500.00 at the time the request is processed by the financial institution.

(10) As an alternative to subsection (6), within 45 days of the end of the first calendar quarter of every year, a financial institution may submit to the office, or to the federal government or its designee, a report of the name, address, social security number, and account number of each person who maintains an account at the financial institution on the last day of the first calendar quarter. Within 45 days after the end of each subsequent quarter of the calendar year, the financial institution that elects the option under this subsection shall submit to the office a report of the name, address, social security number, and account number of each person who opens a new account during the quarter or closes an account that had been reported in a prior quarter during the calendar year. The financial institution may furnish the report in a machine readable form or in writing to the office at the discretion of the financial institution. A financial institution that files reports under this subsection is not required to comply with subsection (6).

(11) Unless otherwise required by law, a financial institution that furnishes a report or provides information to the office under subsection (6) or (10), or to the federal government or its designee under subsection (12), shall not disclose to a depositor or an account holder that the name of the depositor or account holder has been received from or furnished to the office, or to the federal government or its designee. However, a financial institution may disclose to its depositors and account holders and others that the office, or the federal government or its designee, has the authority to request information on depositors or account holders and that the financial institution may provide that information to the office.

(12) To the extent permitted by federal law or policy, a financial institution may furnish information to the federal government or its designee in accordance with data matching processes the federal government establishes under part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 660 and 663 to 669b.

Sec. 4b. (1) A financial institution incurs no obligation or liability to a depositor, account holder, or other person or entity arising from the furnishing of a report or information to the office, to an office agent or representative, or to the federal government or its designee under this act or from the failure to disclose to a depositor, account holder, or other person that the name of a person was included in the report or information provided.

(2) A financial institution incurs no obligation or liability to the office or another person or entity for an error or omission made in good faith compliance with this act.

(3) A financial institution incurs no obligation or liability for blocking, freezing, placing a hold upon, surrendering, or otherwise dealing with a person's or entity's financial assets in response to a lien imposed or information provided pursuant to this act.

(4) A financial institution is not obligated to block, freeze, place a hold upon, surrender, or otherwise deal with a person's or entity's financial assets until served with and having a reasonable opportunity to act upon a subpoena, summons, warrant, court order, administrative order, lien, or levy served upon the financial institution in accordance with the laws of this state. A financial institution that surrenders financial assets to the friend of the court in response to a lien imposed under state law is discharged from any obligation or liability to the depositor, account holder, or other person or entity related to the financial assets that are surrendered to the friend of the court.

(5) A financial institution that surrenders financial assets to the friend of the court may assess the account holder a service charge not to exceed 10% of the amount surrendered to the friend of the court. The service charge shall be in addition to any other fee or charge authorized by this act or otherwise not prohibited by law.

Sec. 4c. This act does not prohibit a financial institution from doing any of the following:

(a) Assessing and collecting fees and other charges from an account holder or depositor including, but not limited to, fees and charges for the maintenance and activities on an account.

(b) Charging back or recouping a deposit to an account.

(c) Setting off a debt owed to the financial institution from an account held by the financial institution.

(d) Exercising a banker's lien on an account held by the financial institution for a debt owed to the financial institution.

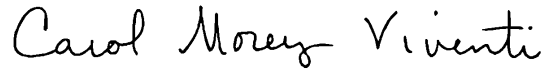
(e) Disclosing information received from the office to an employee, agent, or representative of the financial institution or an affiliate of the financial institution for the purpose of complying with this act and otherwise dealing with a customer or account holder of the financial institution or an affiliate of the financial institution.

Sec. 5. (1) The information obtained by the office shall be available to a governmental department, board, commission, bureau, agency, political subdivision of any state, a court of competent jurisdiction, or the federal government for purposes of administering, enforcing, and complying with state and federal laws governing child support and domestic relations matters. Unless otherwise precluded by state or federal law, the information obtained by the office is also available for purposes specified in 45 C.F.R. 303.21.

(2) The office shall not release information on an address or other information concerning an adult responsible for a child to another adult responsible for the child if the release is prohibited by a court order or if the office has reason to believe that release of information may result in physical or emotional harm to that adult or to the child. The office shall notify the federal government, and courts and agents of courts, about domestic violence or child abuse under part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 660 and 663 to 669b.

Enacting section 1. This amendatory act takes effect June 30, 1998.

This act is ordered to take immediate effect.



Secretary of the Senate.



Clerk of the House of Representatives.

Approved _____

Governor.