

HOUSE BILL No. 6026

May 7, 2002, Introduced by Reps. Ruth Johnson, Tabor, Hummel, DeRossett, Howell, Newell, Voorhees, Vander Veen, Raczkowski, Patterson, Caul, Vear, Julian, George and Bisbee and referred to the Committee on Family and Children Services.

A bill to amend 1952 PA 8, entitled "Revised uniform reciprocal enforcement of support act," by amending the title and sections 3a, 12b, 13, 14, 14a, 17, 18, 29, 30, 31, and 31a (MCL 780.153a, 780.162b, 780.163, 780.164, 780.164a, 780.167, 780.168, 780.179, 780.180, 780.181, and 780.181a), the title and sections 3a, 12b, 13, and 30 as amended by 1990 PA 241, sections 14, 18, and 31a as amended and section 14a as added by 1999 PA 155, and section 17 as amended and sections 29 and 31 as added by 1985 PA 172.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act relative to the extradition of ~~persons~~ INDIVIDUALS charged with failure to provide support for dependents and to provide for the enforcement by THE circuit ~~courts in chancery~~ COURT of this state of the duty of ~~such persons~~ THOSE

1 INDIVIDUALS to support their dependents in accordance with the
2 requirements of the laws of other states or ~~any~~ A foreign state
3 having reciprocal legislation, and to grant to ~~such courts~~ THE
4 CIRCUIT COURT power to enforce ~~such~~ THE SUPPORT obligations by
5 procedures including contempt; ~~and~~ to prescribe the procedure
6 to be followed by ~~such courts~~ THE COURT in case of proceedings
7 to require enforcement of the duty to support residents of this
8 state by those obligated to furnish ~~such~~ THAT support through
9 proceedings in courts of other states or ~~any~~ A foreign state
10 having reciprocal legislation; to prescribe certain powers and
11 duties of the ~~friend of the court~~ COURT FAMILY SERVICES OFFICE;
12 to prescribe certain powers and duties of certain state officers,
13 agencies, and departments; and to prescribe rules of evidence in
14 ~~such~~ THESE proceedings.

15 Sec. 3a. (1) "Court" means the appropriate circuit court of
16 this state and, when the context requires, means the appropriate
17 court of ~~any other~~ ANOTHER state as defined in a substantially
18 similar reciprocal law.

19 (2) "COURT FAMILY SERVICES OFFICE" MEANS THE AGENCY CREATED
20 IN SECTION 3 OF THE COURT FAMILY SERVICES OFFICE ACT, 1982
21 PA 294, MCL 552.503.

22 (3) "DEPARTMENT" MEANS THE FAMILY INDEPENDENCE AGENCY.

23 (4) ~~(2)~~ "Duty of support" means ~~any~~ A duty of support
24 owed to an obligee whether imposed or imposable by law or by
25 order, decree, or judgment of ~~any~~ A court, whether temporary or
26 final or whether incidental to an action for divorce, separation,
27 separate maintenance, or otherwise and includes the duty to pay

1 arrearages of support past due and unpaid. ~~—~~ Duty of support
2 ~~—~~ also includes the duty to reimburse a state or political sub-
3 division for support furnished to an obligee.

4 (5) ~~-(3)-~~ "Foreign support order" means a support order
5 issued by a state other than Michigan.

6 (6) ~~-(4)-~~ "Governor" means ~~any person~~ AN INDIVIDUAL per-
7 forming the functions of governor or the executive authority of
8 ~~any~~ A state covered by this or a substantially reciprocal law.

9 (7) ~~-(5)-~~ "Initiating court" means the court in which a pro-
10 ceeding is commenced.

11 (8) ~~-(6)-~~ "Initiating state" means a state in which a pro-
12 ceeding ~~pursuant to~~ UNDER this or a substantially similar
13 reciprocal law is commenced.

14 (9) ~~-(7)-~~ "Interstate central registry" means the entity in
15 a state that is established ~~pursuant to~~ UNDER federal regula-
16 tion and that is responsible for receiving, reviewing, forward-
17 ing, and responding to inquiries about interstate child support
18 actions.

19 (10) ~~-(8)-~~ "Law" means both common and statutory law.

20 (11) ~~-(9)-~~ "Obligee" means a person, including a state or
21 political subdivision, to whom a duty of support is owed or a
22 person, including a state or political subdivision, who has com-
23 menced a proceeding for enforcement of an alleged duty of support
24 or for registration of a support order. It is immaterial if the
25 person to whom a duty of support is owed is a recipient of public
26 assistance.

1 (12) ~~(10)~~ "Obligor" means ~~any person~~ AN INDIVIDUAL owing
2 a duty of support or against whom a proceeding for the
3 enforcement of a duty of support or registration of a support
4 order is commenced.

5 ~~(11) "Office of the friend of the court" means the agency~~
6 ~~created in section 3 of Act No. 294 of the Public Acts of 1982,~~
7 ~~being section 552.503 of the Michigan Compiled Laws.~~

8 Sec. 12b. (1) The office of child support of the ~~state~~
9 department ~~of social services~~ is designated as the state infor-
10 mation agency and the interstate central registry under this act,
11 and it shall do all of the following:

12 (a) Distribute copies of ~~any~~ amendments to the act and a
13 statement of their effective date to all other state information
14 agencies.

15 (b) Maintain a list of each interstate central registry in
16 the United States and its address, and provide the list to every
17 prosecutor's office and ~~office of the friend of the court~~ COURT
18 FAMILY SERVICES OFFICE in this state.

19 (c) Maintain a supply of duplicated copies of this act, as
20 amended, for the use of court officers in preparing cases to be
21 forwarded to responding states.

22 (d) Act generally as a clearing center for information and
23 maintain general liaison with the council of state governments,
24 law enforcement agencies, the legislature, other governmental or
25 private agencies concerned with this act, and the public.

26 (e) Forward to the court in this state ~~which~~ THAT has
27 proper venue, as determined under section 10, the petitions,

1 certificates, and copies of the act it receives from courts or
2 information agencies of other states.

3 (2) If the state information agency does not know the loca-
4 tion of the obligor or the obligor's property, the agency shall
5 use its state locator service to obtain this information.

6 Sec. 13. (1) When the court of this state, acting as a
7 responding court, receives from the interstate central registry
8 of this state copies of the petition, certificate, and act, the
9 clerk of the court shall docket the case and notify the prosecut-
10 ing attorney of the county, who shall be charged with the duty of
11 carrying on the proceedings.

12 (2) The prosecuting attorney shall take all action necessary
13 in accordance with the laws of this state to enable the court to
14 obtain jurisdiction over the obligor or the obligor's property.
15 He or she shall prosecute the case diligently.

16 (3) A prosecuting attorney petitioning for child support
17 under this act shall utilize as a guideline the child support
18 formula developed under section 19 of the ~~friend of the court~~
19 COURT FAMILY SERVICES OFFICE act, ~~Act No. 294 of the Public Acts~~
20 ~~of 1982, being section 552.519 of the Michigan Compiled Laws~~
21 1982 PA 294, MCL 552.519.

22 Sec. 14. (1) If the court of this state when acting as a
23 responding court finds a duty of support, the court may order the
24 obligor to furnish support and subject the property of the obli-
25 gor to the order. The support order shall require that payments
26 be made to the ~~office of the friend of the court~~ COURT FAMILY
27 SERVICES OFFICE or the state disbursement unit, as appropriate.

1 (2) Except as otherwise provided in this section, the court
2 shall order support in an amount determined by application of the
3 child support formula developed by the state ~~friend of the~~
4 ~~court~~ COURT FAMILY SERVICES OFFICE bureau. The court may enter
5 an order that deviates from the formula if the court determines
6 from the facts of the case that application of the child support
7 formula would be unjust or inappropriate and sets forth in writ-
8 ing or on the record all of the following:

9 (a) The support amount determined by application of the
10 child support formula.

11 (b) How the support order deviates from the child support
12 formula.

13 (c) The value of property or other support awarded in lieu
14 of the payment of child support, if applicable.

15 (d) The reasons why application of the child support formula
16 would be unjust or inappropriate in the case.

17 (3) Subsection (2) does not prohibit the court from entering
18 a support order that is agreed to by the parties and that devi-
19 ates from the child support formula, if the requirements of sub-
20 section (2) are met.

21 Sec. 14a. The department, the SDU, and each ~~office of the~~
22 ~~friend of the court~~ COURT FAMILY SERVICES OFFICE shall cooperate
23 in the transition to the centralized receipt and disbursement of
24 support and fees. ~~An office of the friend of the court~~ A COURT
25 FAMILY SERVICES OFFICE shall continue to receive and disburse
26 support and fees through the transition, based on the schedule
27 developed as required by section ~~6~~ 7 of the office of child

1 support act, 1971 PA 174, MCL ~~400.236~~ 400.237, and
2 modifications to that schedule as the department considers
3 necessary.

4 Sec. 17. The court of this state, when acting as a respond-
5 ing court, has the following duties ~~which~~ THAT may be carried
6 out through the ~~office of the friend of the court~~ COURT FAMILY
7 SERVICES OFFICE:

8 (a) To transmit to the initiating court ~~any~~ A payment made
9 by the obligor ~~pursuant to any~~ UNDER AN order of the court or
10 otherwise.

11 (b) To furnish to the initiating court upon request a certi-
12 fied statement of all payments made by the obligor.

13 Sec. 18. (1) Except as provided in subsection (2), the
14 court of this state, when acting as an initiating court, shall
15 receive and disburse immediately all payments made by the obligor
16 or sent by the responding court.

17 (2) If a valid prior and existing support order has been
18 issued from a court of this state other than the initiating
19 court, the initiating court shall transfer the order to furnish
20 support to the court that issued the valid prior and existing
21 court order and shall inform the court of the responding state of
22 its action. The court that issued the valid prior and existing
23 court order shall receive and disburse immediately all payments
24 made by the obligor or sent by the responding court.

25 (3) The duties described in subsections (1) and (2) may be
26 carried out through the ~~office of the friend of the court~~ COURT

1 FAMILY SERVICES OFFICE, the clerk of the court, or the state
2 disbursement unit, as appropriate.

3 Sec. 29. (1) If this state is acting as a rendering state,
4 the ~~friend of the court~~ COURT FAMILY SERVICES OFFICE upon the
5 request of the court or the ~~state~~ department ~~of social~~
6 ~~services~~ shall proceed to register a valid existing support
7 order of this state in the state where the obligor or the prop-
8 erty of the obligor can be located.

9 (2) Notwithstanding that this state is not the rendering
10 state, the ~~friend of the court~~ COURT FAMILY SERVICES OFFICE
11 upon the request of a resident obligee of a valid existing for-
12 eign support order shall proceed to register the foreign support
13 order in the state where the obligor or the property of the obli-
14 gor can be located.

15 (3) If this state is acting as a registering state, the
16 ~~friend of the court~~ COURT FAMILY SERVICES OFFICE upon the
17 request of the court or the ~~state~~ department ~~of social~~
18 ~~services~~ shall proceed to confirm a registered order.

19 Sec. 30. (1) An obligee seeking to register a foreign sup-
20 port order in a court of this state shall transmit to the clerk
21 of the court through the interstate central registry of this
22 state 3 copies of the order, 1 of which shall be certified, with
23 all modifications of the order, 1 copy of the reciprocal enforce-
24 ment of support act of the state in which the order was made, and
25 a statement verified and signed by the obligee, showing the
26 post-office address of the obligee, the last known place of
27 residence and post-office address of the obligor, the amount of

1 support remaining unpaid, a description and the location of any
2 property of the obligor available upon execution, and a list of
3 the states in which the order is registered. Upon receipt of
4 these documents the clerk of the court, without payment of a
5 filing fee or other cost to the obligee, shall file them in the
6 registry of foreign support orders. The filing constitutes reg-
7 istration under this act.

8 (2) Promptly upon registration of the foreign support order,
9 the clerk of the court shall docket the case and shall notify the
10 ~~friend of the court~~ COURT FAMILY SERVICES OFFICE of the regis-
11 tration of the foreign support order. The ~~friend of the court~~
12 COURT FAMILY SERVICES OFFICE shall mail by certified or regis-
13 tered mail, return receipt requested, to the obligor at the
14 address given, or serve upon the obligor under the Michigan court
15 rules, a notice of the registration with a copy of the registered
16 support order and the post office address of the obligee.

17 (3) Within 28 days after service, the obligor may petition
18 the court to vacate the registration or to seek other relief. If
19 the obligor does not petition the court within 28 days after
20 service to vacate the registration or to seek other relief, the
21 registered support order is confirmed. If the obligor does peti-
22 tion the court to vacate the registration or seek other relief,
23 the obligor shall send a copy of the petition to the ~~friend of~~
24 ~~the court~~ COURT FAMILY SERVICES OFFICE.

25 (4) If the obligor petitions the court to vacate the regis-
26 tration or for other relief, a hearing shall be scheduled. At
27 the hearing, the obligor may present only matters that would be

1 available to the obligor as defenses in an action to enforce a
2 foreign money judgment. If the obligor shows to the court that
3 an appeal from the order is pending or will be taken or that a
4 stay of execution has been granted, the court shall stay enforce-
5 ment of the order until the appeal is concluded, the time for
6 appeal has expired, or the order is vacated, upon satisfactory
7 proof that the obligor has furnished security for payment of the
8 support ordered as required by the rendering state. If the obli-
9 gor shows to the court ~~any~~ A ground upon which enforcement of a
10 support order of this state may be stayed, the court shall stay
11 enforcement of the order for an appropriate period if the obligor
12 furnishes the same security for payment of the support ordered
13 that is required for a support order of this state.

14 Sec. 31. (1) If a registered foreign support order has been
15 confirmed, it shall be treated in the same manner as a support
16 order issued by a court of this state. A registered foreign sup-
17 port order has the same effect and is subject to the same proce-
18 dures, defenses, and proceedings for reopening, modifying, vacat-
19 ing, or staying as a support order of this state and may be
20 enforced and satisfied in like manner.

21 (2) The ~~friend of the court~~ COURT FAMILY SERVICES
22 ADMINISTRATOR shall enforce a confirmed order.

23 Sec. 31a. (1) If there is no Michigan support order but
24 there is a foreign support order, upon request of the obligee or
25 the ~~family independence agency~~ DEPARTMENT if support has been
26 assigned to it, the ~~friend of the court~~ COURT FAMILY SERVICES
27 OFFICE in the county where the obligee resides shall inform the

1 source of support payments to transmit the payments to the
2 ~~friend of the court~~ COURT FAMILY SERVICES OFFICE or the state
3 disbursement unit, as appropriate.

4 (2) The ~~friend of the court~~ COURT FAMILY SERVICES OFFICE
5 or SDU shall receive, record, disburse, and monitor payments made
6 ~~pursuant to the~~ UNDER A foreign support order.

7 (3) A copy of the foreign support order shall be filed with
8 the clerk of the court.

9 (4) The filing of a support order ~~pursuant to~~ UNDER this
10 section is not a registration as described in section 30.

11 Enacting section 1. This amendatory act does not take
12 effect unless Senate Bill No. ____ or House Bill No. 6011
13 (request no. 04605'01 *) of the 91st Legislature is enacted into
14 law.