

INTERSTATE INCOME WITHHOLDING ACT

Act 216 of 1985

AN ACT to facilitate the interstate enforcement of support obligations through income withholding; to prescribe certain powers and duties of the circuit court and of certain agencies and persons; and to provide for remedies and penalties.

History: 1985, Act 216, Eff. Mar. 1, 1986

The People of the State of Michigan enact:

552.671 Short title.

Sec. 1.

This act shall be known and may be cited as the "interstate income withholding act".

History: 1985, Act 216, Eff. Mar. 1, 1986

552.672 Purpose of act.

Sec. 2.

The purpose of this act is to enhance the enforcement of support obligations by providing a quick and effective procedure for the withholding of income derived in this jurisdiction to enforce support orders of other jurisdictions, and by requiring that income withholding to enforce the support orders of this jurisdiction be sought in other jurisdictions. This act shall be construed liberally to effect that purpose.

History: 1985, Act 216, Eff. Mar. 1, 1986

552.673 Definitions.

Sec. 3.

As used in this act:

(a) "Agency" means the court or entity in another jurisdiction with functions similar to those assigned in this act to the office of the friend of the court and the office of child support relative to the issuance and enforcement of support orders.

(b) "Child" means a child, whether above or below the age of majority, with respect to whom a support order exists.

(c) "Court" means the circuit court of this state and, when the context requires, the court or entity of another jurisdiction with functions similar to those assigned in this act to the circuit court of this state relative to the issuance and enforcement of support orders.

(d) "Income" means income as defined in section 2 of the support and parenting time enforcement act, MCL 552.602.

(e) "Income derived in this jurisdiction" means income, the source of income of which is subject to the jurisdiction of this state for the purpose of imposing and enforcing income withholding under the support and parenting time enforcement act.

(f) "Jurisdiction" means a state or political subdivision, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

(g) "Obligee" means a person or entity that is entitled to receive support under a support order, and includes an entity of another jurisdiction to which a person has assigned his or her right to support.

(h) "Obligor" means a person required to make payments under the terms of a support order for a child, spouse, or former spouse.

(i) "Office of child support" means the entity established in section 2 of the office of child support act, 1971 PA 174, MCL 400.232.

(j) "Office of the friend of the court" means an office created in section 3 of the friend of the court act, 1982 PA 294, MCL 552.503.

(k) "Order of income withholding" means order of income withholding as defined in section 2 of the support and parenting time enforcement act, MCL 552.602, or the equivalent document issued in another jurisdiction.

(l) "Source of income" means source of income as defined in section 2 of the support and parenting time enforcement act, MCL 552.602.

(m) "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.

(n) "Support and parenting time enforcement act" means 1982 PA 295, MCL 552.601 to 552.650.

(o) "Support order" means an order or judgment for the support, or for the payment of arrearages on the support, of a child, spouse, or former spouse issued by a court or agency of another jurisdiction, whether interlocutory or final, whether or not prospectively or retroactively modifiable, whether incidental to a proceeding for divorce, separate maintenance, paternity, guardianship, or equivalent proceeding, or otherwise.

History: 1985, Act 216, Eff. Mar. 1, 1986 ;-- Am. 1996, Act 11, Eff. June 1, 1996 ;-- Am. 1999, Act 154, Imd. Eff. Nov. 3, 1999

552.674 Remedy cumulative; delay or denial of relief prohibited.

Sec. 4.

The remedy provided in this act is in addition to, and not in substitution for, any other remedy otherwise available to enforce a support order of another jurisdiction. Relief under this act shall not be denied, delayed, or otherwise affected because of the availability of other remedies, nor shall relief under any other statute be delayed or denied because of the availability of this remedy.

History: 1985, Act 216, Eff. Mar. 1, 1986

552.675 Requesting agency of another jurisdiction to enter order for purpose of obtaining income withholding; documentation; copy of subsequent modifications of support order; contesting income withholding; notice; monitoring payments.

Sec. 5.

On behalf of a client for whom the office of the friend of the court is already providing services, or on application of a resident of this state, an obligee or obligor of a support order issued by this state or an entity to whom the obligee has assigned support rights, or the office of the friend of the court in the county where the support order was entered or, if there is no such order, in the county where the obligee or obligor resides, shall promptly request the agency of another jurisdiction in which the obligor of a support order derives income to enter the order for the purpose of obtaining income withholding against that income. The office of the friend of the court shall compile and transmit promptly to the agency of the other jurisdiction all documentation required to enter a support order for this purpose and shall file the documentation with the clerk of the court. The office of the friend of the court also shall transmit immediately to the agency of the other jurisdiction a certified copy of any subsequent modifications of the support order. If the office of the friend of the court receives notice that the obligor is contesting income withholding in another jurisdiction, it shall immediately notify the individual obligee of the date, time, and place of the hearings and of the obligee's right to attend. The office of the friend of the court shall monitor payments made pursuant to an order of income withholding.

History: 1985, Act 216, Eff. Mar. 1, 1986 ;-- Am. 1990, Act 354, Imd. Eff. Dec. 26, 1990 ;-- Am. 1999, Act 154, Imd. Eff. Nov. 3, 1999

552.676 Office of child support to forward documentation to office of friend of court; filing documents with clerk of court; acceptance of documents as entry of support order; documentation required for entry of support order of another jurisdiction; remedying defect in documentation; notice of necessary additions or corrections; effect of meeting substantive requirement; enforcement of support order; jurisdiction limited to income withholding.

Sec. 6.

(1) Upon receiving a support order of another jurisdiction with the documentation specified in subsection (2) from an agency, an obligee, an obligor, or an attorney for either, the office of child support shall forward the documentation to the office of the friend of the court in the county in which withholding is being sought and the office of the friend of the court shall file the documents with the clerk of the court in that county. The clerk of the court shall accept the documents filed and the acceptance constitutes entry of the support order only for the purposes of this act.

(2) The following documentation is required for the entry of a support order of another jurisdiction:

(a) A certified copy of the support order with all modifications.

(b) A certified copy of an order of income withholding still in effect, if any.

(c) A copy of the portion of the income withholding statute of the jurisdiction that issued the support order that states the amount of arrearages necessary to mandate income withholding under the law of that jurisdiction.

(d) A sworn statement of the obligee or certified statement of the agency of the amount of arrearages, including the approximate dates the arrearages accrued, and the assignment of support rights, if any.

(e) A statement of all of the following:

(i) The name, address, and social security number of the obligor, if known.

(ii) The name and address of the obligor's employer or of any other source of income of the obligor derived in this state against which income withholding is sought.

(iii) The name and address of the agency or person to whom support payments collected by income withholding shall be transmitted.

(iv) The amount of income withholding requested.

(f) A statement of eligibility for services under part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 669, signed by the obligee.

(g) A copy of proof of service or other evidence that the court or agency that issued the support order had personal jurisdiction over the obligor.

(h) Notification of any known support orders involving the same parties and the same children.

(3) If the documentation received by the office of child support under subsection (1) does not conform to the requirements of subsection (2), the office of child support shall remedy any defect that it can without the assistance of the requesting agency or party. If the office of child support is unable to make such corrections, the office of child support shall immediately notify the requesting agency or party of the necessary additions or corrections. In neither case shall the documentation be returned. If the substantive requirements of subsection (2) are met, the office of child support and the clerk of the court shall accept the documentation required by subsection (2), even if the documentation is not in the usual form required by this state.

(4) Except as otherwise provided in sections 7 to 13, a support order entered under subsection (1) is enforceable by income withholding against income derived in this state in the same manner and with the same effect as provided in sections 7 to 23 of the support and parenting time enforcement act, being sections 552.607 to 552.623 of the Michigan Compiled Laws, for support orders entered in this state. Entry of the order does not confer jurisdiction on the courts of this state for any purpose other than income withholding.

History: 1985, Act 216, Eff. Mar. 1, 1986 ;-- Am. 1996, Act 11, Eff. June 1, 1996

552.676a Filing fee or other costs not required.

Sec. 6a.

A court shall not require payment of either a filing fee or other costs from the obligee.

History: Add. 1990, Act 354, Imd. Eff. Dec. 26, 1990

552.677 Notice of proposed income withholding; contents; request for hearing; notice of hearing.

Sec. 7.

(1) On the date a support order is entered under section 6, the office of the friend of the court shall send to the obligor, in the manner provided in section 7 of the support and parenting time enforcement act, being section 552.507 of the Michigan Compiled Laws, a notice of the proposed income withholding. The notice shall contain the same information required in that section and shall also advise the obligor that the income withholding was requested on the basis of a support order of another jurisdiction.

(2) If the obligor requests a hearing to contest the proposed income withholding, the office of the friend of the court shall immediately notify the agency or person that sent the documentation under subsection (1) of the date, time, and place of the hearing and of the obligee's right to attend the hearing.

History: 1985, Act 216, Eff. Mar. 1, 1986 ;-- Am. 1996, Act 11, Eff. June 1, 1996

552.678 Prima facie proof; defenses of obligor; burden; duties of court.

Sec. 8.

(1) At any hearing contesting proposed income withholding based on a support order entered under section 6, the support order, accompanying sworn or certified statement, and a certified copy of an order of income withholding still in effect, if any, shall constitute prima facie proof, without further proof or foundation, that the support order is valid, that the amount of current support payments and arrearages is as stated, and that the obligee would be entitled to income withholding under the law of the jurisdiction which issued the support order.

(2) Once a prima facie case has been established as provided in subsection (1), the obligor may raise only the following defenses:

(a) That withholding is not proper because of a mistake of fact concerning the amount of current or overdue support or the identity of the obligor.

(b) That the court or agency which issued the support order entered under this act lacked personal jurisdiction over the obligor.

(c) That the support order entered under this act was obtained by fraud.

(d) That the statute of limitations under section 13 (3) precludes enforcement of all or part of the arrearages.

(3) The burden shall be on the obligor to establish a defense under subsection (2).

(4) If the obligor presents evidence which constitutes a full or partial defense, the court shall, on the request of the obligee, continue the hearing to permit further evidence relative to the defense to be adduced by either party. However, if the obligor acknowledges liability sufficient to entitle the obligee to income withholding, the court shall require income withholding for the payment of current support payments under the support order and of so much of any arrearage as is not in dispute, while continuing the hearing with respect to those matters still in dispute. The court shall determine promptly those matters still in dispute and, if appropriate, shall modify the withholding order to conform to that determination.

History: 1985, Act 216, Eff. Mar. 1, 1986

552.679 Order of income withholding; manner of taking effect; notice.

Sec. 9.

If the obligor does not request a hearing in the time provided, or if a hearing is held and it is determined that the obligee has or is entitled to income withholding under the law of the jurisdiction that issued the support order, income withholding shall be ordered and shall take effect in the manner provided in section 7 of the support and parenting time enforcement act, being section 552.607 of the Michigan Compiled Laws. The office of the friend of the court shall notify the agency or party that sent the documentation under section 6 of the date upon which withholding will begin.

History: 1985, Act 216, Eff. Mar. 1, 1986 ;-- Am. 1996, Act 11, Eff. June 1, 1996

552.680 Payments made and received pursuant to order of income withholding; validity of support order; more than 1 support order in effect for support of 1 person by same obligor.

Sec. 10.

(1) An order of income withholding under this act shall direct payment to be made to the office of the friend of the court or the state disbursement unit, as appropriate. The office of the friend of the court or SDU shall promptly transmit payments received pursuant to an order of income withholding based on a support order of another jurisdiction entered under this act to the agency or person designated in section 6(2)(e)(iii).

(2) A support order entered pursuant to section 6 does not nullify and is not nullified by a support order entered by the court in this state pursuant to another law or a support order entered by a court of another state. If more than 1 support order is in effect for the support of 1 person by the same obligor, then amounts collected by income withholding and credited against an amount owing for a particular time period under any 1 order shall be credited against amounts owing for the same time period under all such orders.

History: 1985, Act 216, Eff. Mar. 1, 1986 ;-- Am. 1999, Act 154, Imd. Eff. Nov. 3, 1999

552.680a Transition to centralized receipt and disbursement of support and fees.

Sec. 10a.

The department, the SDU, and each office of the friend of the court shall cooperate in the transition to the centralized receipt and disbursement of support and fees. An office of the friend of the court shall continue to receive and disburse support and fees through the transition, based on the schedule developed as required by section 6 of the office of child support act, 1971 PA 174, MCL 400.236, and modifications to that schedule as the department considers necessary.

History: Add. 1999, Act 154, Imd. Eff. Nov. 3, 1999

552.681 Obligor obtaining employment or having new or additional source of income in another state; duty of office of friend of court.

Sec. 11.

If the office of the friend of the court determines that the obligor has obtained employment in another state or has a new or additional source of income in another state, it shall notify the person or agency which requested the income withholding of the changes within 7 days after receiving that information and shall forward to that person or agency all information it has or can obtain with respect to the obligor's new address and the name and address of the obligor's new employer or other source of income.

History: 1985, Act 216, Eff. Mar. 1, 1986

552.682 Voluntary income withholding.

Sec. 12.

A person who is the obligor on a support order of another jurisdiction may obtain voluntary income withholding by filing with the office of the friend of the court in the county in which withholding is sought a request for income withholding and a certified copy of the support order of the other jurisdiction. The court shall enter an order of income withholding and the order shall take effect immediately. An order of income withholding entered under this section shall be treated in all respects in the same manner as other orders of income withholding entered pursuant to this act.

History: 1985, Act 216, Eff. Mar. 1, 1986

552.683 Applicable law.

Sec. 13.

(1) Except as otherwise provided by subsection (2), the law of this state shall apply in all actions and proceedings concerning the entry, enforcement, and duration of orders of income withholding entered by a court in this state, based upon a support order of another jurisdiction entered pursuant to section 6.

(2) The law of the jurisdiction that issued the support order shall govern all of the following:

(a) The interpretation of the support order entered under section 6, including the amount, form of payment, and duration of support.

(b) The amount of support arrearages necessary to require the issuance of an order of income withholding.

(c) The definition of which costs, if any, in addition to the periodic support obligation, are included as arrearages that are enforceable by income withholding, including but not limited to interest, attorney's fees, court costs, and costs of paternity testing.

(3) The statute of limitations of this state for maintaining an action on support arrearages shall apply.

History: 1985, Act 216, Eff. Mar. 1, 1986

552.684 Effective date.

Sec. 14.

This act shall take effect on March 1, 1986.

History: 1985, Act 216, Eff. Mar. 1, 1986

552.685 Conditional effective date.

Sec. 15.

This act shall not take effect unless all of the following bills of the 83rd Legislature are enacted into law:

(a) Senate Bill No. 227.

(b) Senate Bill No. 228.

History: 1985, Act 216, Eff. Mar. 1, 1986

Compiler's Notes: Senate Bill No. 227, referred to in MCL 552.685, was filed with the Secretary of State January 8, 1986, and became P.A. 1985, No. 209, effective Mar. 1, 1986. Senate Bill No. 228, also referred to in MCL 552.685, was filed with the Secretary of State January 8, 1986, and became P.A. 1985, No. 210, effective Mar. 1, 1986.