

Act No. 243
Public Acts of 1990
Approved by the Governor
October 9, 1990
Filed with the Secretary of State
October 10, 1990

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1990**

Introduced by Reps. Perry Bullard and Law

ENROLLED HOUSE BILL No. 5286

AN ACT to amend sections 15, 16, 17, 17a, 20, and 27 of chapter 84 of the Revised Statutes of 1846, entitled "Of divorce," sections 15 and 16 as amended by Act No. 274 of the Public Acts of 1989, being sections 552.15, 552.16, 552.17, 552.17a, 552.20, and 552.27 of the Michigan Compiled Laws; and to add section 16a.

The People of the State of Michigan enact:

Section 1. Sections 15, 16, 17, 17a, 20, and 27 of chapter 84 of the Revised Statutes of 1846, sections 15 and 16 as amended by Act No. 274 of the Public Acts of 1989, being sections 552.15, 552.16, 552.17, 552.17a, 552.20, and 552.27 of the Michigan Compiled Laws, are amended and section 16a is added to read as follows:

Sec. 15. (1) After the filing of a complaint in an action to annul a marriage or for a divorce or separate maintenance, on the motion of either party or the friend of the court, or on the court's own motion, the court may enter such orders concerning the care, custody, and support of the minor children of the parties during the pendency of the action as the court considers proper and necessary. Subject to section 16a, the court may also order support as provided in this subsection for the parties' children who are not minor children.

(2) Except as otherwise provided in this section, the court shall order support in an amount determined by application of the child support formula developed by the state friend of the court bureau. The court may enter an order that deviates from the formula if the court determines from the facts of the case that application of the child support formula would be unjust or inappropriate and sets forth in writing or on the record all of the following:

- (a) The support amount determined by application of the child support formula.
- (b) How the support order deviates from the child support formula.
- (c) The value of property or other support awarded in lieu of the payment of child support, if applicable.
- (d) The reasons why application of the child support formula would be unjust or inappropriate in the case.

(3) Subsection (2) does not prohibit the court from entering a support order that is agreed to by the parties and that deviates from the child support formula, if the requirements of subsection (2) are met.

(4) For the purposes of this section, "support" may include payment of the expenses of medical, dental, and other health care, child care expenses, and educational expenses. If a support order is entered, the court shall require that 1 or both parents shall obtain or maintain any health care coverage that is available to them at a reasonable cost, as a benefit of employment, for the benefit of the minor children of the parties and, subject to section 16a, for the benefit of the parties' children who are not minor children. If a parent is self-employed and maintains health care coverage, the court shall require the parent to obtain or maintain dependent coverage for the benefit of the minor children of the parties and, subject to section 16a, for the benefit of the parties' children who are not minor children, if available at a reasonable cost.

(5) Orders concerning the support of children of the parties shall be enforceable as provided in the support and visitation enforcement act, Act No. 295 of the Public Acts of 1982, being sections 552.601 to 552.650 of the Michigan Compiled Laws.

(6) The court may waive jurisdiction of any minor children under the age of 17 during the pendency of the action to the probate court, to be governed by the laws of this state with respect to dependent and neglected children under the age of 17 years.

Sec. 16. (1) Upon annulling a marriage or entering a judgment of divorce or separate maintenance, the court may enter such orders as it considers just and proper concerning the care, custody, and support of the minor children of the parties. Subject to section 16a, the court may also order support as provided in this subsection for the parties' children who are not minor children. The court may require either parent to file a bond with 1 or more sufficient sureties, in a sum to be fixed by the court, guaranteeing payment of the support ordered in the judgment.

(2) Except as otherwise provided in this section, the court shall order support in an amount determined by application of the child support formula developed by the state friend of the court bureau. The court may enter an order that deviates from the formula if the court determines from the facts of the case that application of the child support formula would be unjust or inappropriate and sets forth in writing or on the record all of the following:

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

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

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

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

(3) Subsection (2) does not prohibit the court from entering a support order that is agreed to by the parties and that deviates from the child support formula, if the requirements of subsection (2) are met.

(4) For the purposes of this section, "support" may include payment of the expenses of medical, dental, and other health care, child care expenses, and educational expenses. The judgment shall require that 1 or both parents shall obtain or maintain any health care coverage that is available to them at a reasonable cost, as a benefit of employment, for the benefit of the minor children of the parties and, subject to section 16a, for the benefit of the parties' children who are not minor children. If a parent is self-employed and maintains health care coverage, the court shall require the parent to obtain or maintain dependent coverage for the benefit of the minor children of the parties and, subject to section 16a, for the benefit of the parties' children who are not minor children, if available at a reasonable cost.

(5) Orders concerning the support of children of the parties shall be enforceable as provided in the support and visitation enforcement act, Act No. 295 of the Public Acts of 1982, being sections 552.601 to 552.650 of the Michigan Compiled Laws.

(6) The court, in the judgment or after entry of the judgment, may waive jurisdiction of any minor children under the age of 17 years to the probate court to be governed by the laws of this state with respect to dependent and neglected children under the age of 17 years.

Sec. 16a. (1) The court may order support for a child pursuant to this chapter to provide support after the child reaches 18 years of age as provided in this section.

(2) Beginning on the effective date of this section, the court may order support for the time a child is regularly attending high school on a full-time basis with a reasonable expectation of completing sufficient credits to graduate from high school while residing on a full-time basis with the payee of support or at an institution, but in no case after the child reaches 19 years and 6 months of age. A complaint or motion requesting support as provided in this section may be filed at any time before the child reaches 19 years and 6 months of age.

(3) A provision contained in a judgment or an order entered under this act before the effective date of this section that provides for the support of a child after the child reaches 18 years of age, without an agreement of the parties as described in subsection (4), is valid and enforceable to the extent the provision provides support for the child for the time the child is regularly attending high school on a full-time basis with a reasonable expectation of completing sufficient credits to graduate from high school while residing on a full-time basis with the payee of support or at an institution, but in no case after the child reaches 19 years and 6 months of age. This subsection shall not require any payment of support for a child after the child reaches 18 years of age for any period between November 8, 1989 and the effective date of this section or reimbursement of support paid between November 8, 1989 and the effective date of this section in those judicial circuits that did not enforce support for a child after the child reached 18 years of age during the period between November 8, 1989 and the effective date of this section.

(4) Notwithstanding subsection (2), a provision contained in a judgment or an order entered under this act before, on, and after the effective date of this section that provides for the support of a child after the child reaches 18 years of age is valid and enforceable if 1 or more of the following apply:

(a) The provision is contained in the judgment or order by agreement of the parties as stated in the judgment or order.

(b) The provision is contained in the judgment or order by agreement of the parties as evidenced by the approval of the substance of the judgment or order by the parties or their attorneys.

(c) The provision is contained in the judgment or order by written agreement signed by the parties.

(d) The provision is contained in the judgment or order by oral agreement of the parties as stated on the record by the parties or their attorneys.

Sec. 17. (1) The court may, from time to time afterwards, on the petition of either of the parents, revise and alter such decree concerning the care, custody, maintenance, and support of the children, or any of them, and make a new decree concerning the same, as the circumstances of the parents, and the benefit of the children shall require.

(2) Except as otherwise provided in this section, the court shall order support in an amount determined by application of the child support formula developed by the state friend of the court bureau. The court may enter an order that deviates from the formula if the court determines from the facts of the case that application of the child support formula would be unjust or inappropriate and sets forth in writing or on the record all of the following:

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

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

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

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

(3) Subsection (2) does not prohibit the court from entering a support order that is agreed to by the parties and that deviates from the child support formula, if the requirements of subsection (2) are met.

(4) For the purposes of this section, "support" may include payment of the expenses of medical, dental, and other health care, child care expenses, and educational expenses. If a support order is entered, the court shall require that 1 or both parents shall obtain or maintain any health care coverage that is available to them at a reasonable cost, as a benefit of employment, for the benefit of the minor children of the parties and, subject to section 16a, for the benefit of the parties' children who are not minor children. If a parent is self-employed and maintains health care coverage, the court shall require the parent to obtain or maintain dependent coverage for the benefit of the minor children of the parties and, subject to section 16a, for the benefit of the parties' children who are not minor children, if available at a reasonable cost.

(5) Orders concerning the support of children of the parties shall be enforceable as provided in the support and visitation enforcement act, Act No. 295 of the Public Acts of 1982, being sections 552.601 to 552.650 of the Michigan Compiled Laws.

Sec. 17a. (1) The court shall have jurisdiction in making such order or judgment relative to the minor children of such parties as authorized in this chapter to award custody of each child to 1 of the parties or a third person until each child has attained the age of 18 years and may require either parent to pay for the support of each child until each child shall have attained that age. Subject to section 16a, the court may also order support as authorized in this chapter for a child of the parties to provide support for the child after the child reaches 18 years of age.

(2) Upon an application for modification of a judgment or order when applicant is in contempt, for cause shown, the court may waive the contempt and proceed to a hearing without prejudice to applicant's rights and render a determination on the merits.

Sec. 20. Upon every divorce, and upon every divorce from bed and board for any cause, if any real and personal estate of either party, or money in lieu of the real or personal estate is awarded to either party as provided in section 19, the court, instead of ordering it to be delivered or paid to either party, may order it to be delivered or paid to a trustee or trustees, to be appointed by the court, upon trust to invest it, and to apply the income from it to the support and maintenance of either party, and of the children of the marriage, or any of them, in the manner as the court shall direct.

Sec. 27. If alimony or an allowance for the support and education of the children is awarded to either party, the amount of the alimony or allowance shall constitute a lien upon the real and personal estate of the adverse party as the court by its judgment shall direct. In default of payment of the amount that was awarded, the court may do 1 or more of the following:

(a) Order the sale of the property against which the lien is adjudged in the same manner and upon like notice as in suits for the foreclosure of mortgage liens.

(b) Award execution for the collection of the judgment.

(c) Order the sequestration of the real and personal estate of either party and may appoint a receiver of the real estate or personal estate, or both, and cause the personal estate and the rents and profits of the real estate to be applied to the payment of the judgment.

(d) Award a division between the husband and wife of the real and personal estate of either party or of the husband and wife by joint ownership or right as the court considers equitable and just.

Section 2. This amendatory act shall not take effect unless all of the following bills of the 85th Legislature are enacted into law:

- (a) Senate Bill No. 902.
- (b) Senate Bill No. 903.
- (c) Senate Bill No. 904.
- (d) Senate Bill No. 905.
- (e) Senate Bill No. 906.
- (f) House Bill No. 5287.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.