

HOUSE BILL No. 5990

September 12, 1990, Introduced by Rep. Nye and referred to the Committee on Judiciary.

A bill to amend sections 2 and 5 of Act No. 138 of the Public Acts of 1966, entitled as amended "The family support act," section 2 as amended by Act No. 276 of the Public Acts of 1989, being sections 552.452 and 552.455 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2 and 5 of Act No. 138 of the Public
2 Acts of 1966, section 2 as amended by Act No. 276 of the Public
3 Acts of 1989, being sections 552.452 and 552.455 of the Michigan
4 Compiled Laws, are amended to read as follows:

5 Sec. 2. (1) Upon the hearing of the complaint, in the
6 manner of a motion, the court may enter an order as it determines
7 proper for the support of the petitioner and the minor child or
8 children of the parties. The order shall provide that all

1 payments shall be made to the friend of the court. If the parent
2 complained of opposes the entry of the order upon the ground that
3 he or she is without sufficient financial ability to provide nec-
4 essary shelter, food, care, clothing, and other support for his
5 or her spouse and child or children, the burden of proving this
6 lack of ability shall be upon the parent against whom the com-
7 plaint is made. The order shall state in separate paragraphs the
8 amount of support for the petitioner until the further order of
9 the court, and the amount of support for each child until each
10 child reaches 18 years of age or until the further order of the
11 court. In unusual circumstances, the court may order support for
12 the child after the child reaches 18 years of age and until he or
13 she reaches 21 years of age, or until the further order of the
14 court.

15 (2) ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE
16 court shall order support in an amount determined by application
17 of the child support formula developed by the state friend of the
18 court bureau. ~~, except that the~~ THE court may enter an order
19 that deviates from the formula ~~under either of the following~~
20 ~~circumstances: (a) If~~ IF the court determines from the facts of
21 the case that application of the child support formula would be
22 unjust or inappropriate and sets forth in writing or on the
23 record all of the following:

24 (A) ~~(i)~~ The support amount determined by application of
25 the child support formula.

26 (B) ~~(ii)~~ How the support order deviates from the child
27 support formula.

1 (C) ~~-(iii)-~~ The value of property or other support awarded
2 in lieu of the payment of child support, if applicable.

3 ~~-(iv)- The court's reasons for its determination.~~

4 ~~-(b)- If the parties agree to a different amount, provided~~
5 ~~that the party receiving child support is not a recipient of~~
6 ~~public assistance.~~

7 (D) THE REASONS WHY APPLICATION OF THE CHILD SUPPORT FORMULA
8 WOULD BE UNJUST OR INAPPROPRIATE IN THE CASE.

9 (3) SUBSECTION (2) DOES NOT PROHIBIT THE COURT FROM ENTERING
10 A SUPPORT ORDER THAT IS AGREED TO BY THE PARTIES AND THAT DEVI-
11 ATES FROM THE CHILD SUPPORT FORMULA, IF THE REQUIREMENTS OF SUB-
12 SECTION (2) ARE MET.

13 (4) ~~-(3)-~~ For the purposes of this act, "support" may
14 include payment of the expenses of medical, dental, and other
15 health care, child care expenses, and educational expenses. The
16 court shall require that 1 or both parents shall obtain and main-
17 tain any health care coverage that is available to them at a rea-
18 sonable cost, as a benefit of employment, for the benefit of the
19 minor children of the parties. If a parent is self-employed and
20 maintains health care coverage, the court shall require the
21 parent to obtain or maintain dependent coverage for the benefit
22 of the minor children of the parties, if available at a reason-
23 able cost.

24 (5) ~~-(4)-~~ An order entered under this section shall be
25 enforceable as provided in the support and visitation enforcement
26 act, Act No. 295 of the Public Acts of 1982, being
27 sections 552.601 to 552.650 of the Michigan Compiled Laws.

1 Sec. 5. ~~Any~~ SUBJECT TO SECTION 2(2) OR (3), AN order
2 entered pursuant to section 2 of this act may be modified by the
3 court upon proper application to the court and due notice to the
4 opposite party. If any judgment of divorce or of separate main-
5 tenance is entered by any court having personal jurisdiction over
6 the parties, any order entered pursuant to the provisions of this
7 act shall become null and void upon the effective date of the
8 judgment.