

No. 1988-35

AN ACT

HB 1454

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for administration of support matters; providing for notice concerning judgments by operation of law; further providing for expedited procedure and for the duty to report; providing for arrears as judgments; and providing a penalty.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 4302 of Title 23 of the Pennsylvania Consolidated Statutes is amended by adding a definition to read:

§ 4302. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

“Judgment by operation of law.” A judgment which exists without the need for any ministerial act and which arises out of the existence of facts readily verifiable from the domestic relations section’s records. The existence of a valid support order and nonpayment of the order, together, create the judgment.

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Section 2. Sections 4305, 4342(a), 4352 and 4353 of Title 23 are amended to read:

§ 4305. General administration of support matters.

Subject to any inconsistent general rules and to the supervision and direction of the court, the domestic relations section shall have the power and duty to:

- (1) Process all complaints received under Chapter 45 (relating to reciprocal enforcement of support orders).
- (2) Make such investigation as may be necessary.
- (3) Take charge of any obligor before or after hearing, as may be directed by the court.
- (4) Collect and pay over to the persons entitled thereto moneys received pursuant to support proceedings.
- (5) Keep a full and complete record of all support proceedings, including orders of the court.
- (6) Keep account of all payments made under order of court and promptly bring to the attention of the court and the district attorney any default in compliance with any order of court.

(6.1) In the case of a dispute as to the amount of an order of support proposed by the domestic relations section, issue a temporary order of support pending judicial determination. A temporary order of support

under this paragraph may not be for less than the full amount of the proposed order of support being disputed.

(7) Make effective the orders of support entered.

(8) Furnish the court with such information and assistance as it may require and generally perform such services as it may direct relating to support proceedings.

(9) Inform both parties to a support action that guidelines as specified in section 4322 (relating to support guidelines) are available in the domestic relations section.

§ 4342. Expedited procedure.

(a) General rule.—The Supreme Court shall by general rule provide for expedited procedures for the determination *and enforcement* of support. The procedures shall include an office conference; a conference summary to the court by the hearing officer; an opportunity for the court to enter an order without hearing the parties; and an opportunity for the parties to demand a full hearing by the court.

* * *

§ 4352. Continuing jurisdiction over support orders.

(a) General rule.—The court making an order of support shall at all times maintain jurisdiction of the matter for the purpose of enforcement of the order and for the purpose of increasing, decreasing, modifying or rescinding the order without limiting the right of the obligee to institute additional proceedings for support in any county in which the obligor resides or in which property of the obligor is situated.

(b) Transfer of action.—Where neither party to the action resides or is employed in the county wherein the support action was filed, the court may transfer the matter to any county wherein either party resides or where the defendant is regularly employed. If one of the parties resides outside of this Commonwealth, the action may be transferred to the county of residence or employment of the other party.

(c) *Arrears as judgments.*—*On and after the date it is due, each and every support obligation shall constitute a judgment against the obligor by operation of law, with the full force, effect and attributes of a judgment of court, including the ability to be enforced, and shall be entitled as a judgment to full faith and credit in this or any other state. Past due support obligations shall not become a lien upon the real and personal property of the person ordered to make such payments until the judgment or order has been entered of record in the office of the clerk of the court of common pleas in the county where the real or personal property owned by the person obligated to pay support is located or in the office of the clerk of the branch of the court of common pleas embracing such county in accordance with 42 Pa.C.S. § 4303 (relating to effect of judgments and orders as liens). Execution shall issue thereon pursuant to the Rules of Civil Procedure. The obligation for payment of arrears or past due support shall terminate by operation of law when all arrears or past due support has been paid.*

(d) *Retroactive modification of arrears.*—*No court shall modify or remit any support obligation, on or after the date it is due, except with respect to*

any period during which there is pending a petition for modification. If a petition for modification was filed, modification may be applied to the period beginning on the date that notice of such petition was given, either directly or through the appropriate agent, to the obligee or, where the obligee was the petitioner, to the obligor. However, modification may be applied to an earlier period if the petitioner was precluded from filing a petition for modification by reason of a significant physical or mental disability, misrepresentation of another party or other compelling reason and if the petitioner, when no longer precluded, promptly filed a petition. In the case of an emancipated child, arrears shall not accrue from and after the date of the emancipation of the child for whose support the payment is made.

[(c)] (e) Foreign support orders.—**[The]** *Subject to the limitations in subsection (c), the court may modify or remit any support obligation under registered foreign support orders when the foreign court declines, surrenders or determines that it is an inappropriate forum to modify the decree. [The court may at any time remit, correct or reduce the amount of arrearages.]*

(f) *Notice to obligors and obligees.—The domestic relations section shall mail notice to obligors and obligees of existing orders informing them that such orders may attain the status of a judgment by operation of law. The notice shall explain the nature of a judgment by operation of law and its effect. Further, the notice shall advise each party to a support proceeding of the party's duty to advise the domestic relations section of material changes in circumstance and of the necessity to promptly request a modification as soon as circumstances change.*

[(d)] (g) Applicability.—This section applies to all support orders whether entered under this chapter or any other statute.

§ 4353. Duty to report.

(a) *Notice of changes.—[A] An individual who is a party to a support proceeding shall notify the domestic relations section in writing or by personal appearance within seven days of any material change in circumstances relevant to the level of support or the administration of the support order, including, but not limited to:*

(1) *change of employment[,]; and*

(2) *change of personal address or change of address of any child receiving support.*

(b) *Failure to give notice.—Willful failure to comply with this section may be adjudged in contempt of court pursuant to section 4345 (relating to contempt for noncompliance with support order).*

Section 3. Title 23 is amended by adding a section to read:

§ 4354. *Willful failure to pay support order.*

(a) *Offense defined.—An individual who willfully fails to comply with a support order of a court of this Commonwealth when the individual has the financial ability to comply with the support order commits a summary offense.*

(b) *Application.—This section applies to all support cases, whether civil or criminal and whether the defendant is married, unmarried, separated or divorced.*

(c) Jurisdiction.—Exclusive original jurisdiction of a proceeding under this section is vested in the courts of common pleas of this Commonwealth.

Section 4. The amendments affecting section 4352 shall apply to all support orders under which an arrearage exists on or is accrued after the effective date of this act.

Section 5. This act shall take effect immediately.

APPROVED—The 25th day of March, A. D. 1988.

ROBERT P. CASEY