



THE ENFORCER

BY DAVID FINDLING

HIS INCOME IS THE SOURCE OF THE PROBLEM

John Smith, who owes child support, is a member of the International Brotherhood of Electrical Workers (“IBEW”) and wants work. Since the IBEW does not directly employ its members, Smith must travel to the union hall and request work. He signs in at the hall and indicates that he is available.

Acme Construction Company contacts the IBEW looking for 5 union electricians for a month long project. The IBEW sends Smith and four others to Acme but no notice is provided to Acme of the Friend of the Court’s income withholding order (“IWO”).

Once Acme’s project is complete, it no longer requires Smith’s services and lays him off; thus, Acme is no longer Smith’s “source of income.” Smith, out of work, then travels to the union hall and requests new work and the process starts over again. Smith will find employment with a new employer who is unaware of the IWO. Smith’s ex-spouse and the Friend of the Court will not know of Smith’s new employer and never be able to serve it with the IWO.

Michigan’s heavily unionized workforce combined with the current statutory definition of “source of income” has created problems in collecting child support.

MCL 552.602(cc) provides the definition for what constitutes income:

“‘Source of income’ means an employer or successor employer or another individual or entity that owes or will owe income to the payer.”¹

In cases where child support is awarded, the Friend of

the Court prepares an Income Withholding Order which is served upon the support payer’s employer.² The IWO orders the payer’s employer to forward a portion of the payer’s income to the Friend of the Court.³

Problems arise when a payer obtains transient employment through a union or other provider. Typically, by the time the Friend of the Court discovers a payer’s employer, the payer has switched jobs and is no longer employed by the same employer.

This problem is exacerbated in booming economic times when construction jobs are plentiful. If Smith’s current employer is served with an IWO, Smith can just quit that job and request new work from the union hall. This forces Smith’s ex-spouse and the Friend of the Court to search for Smith’s new employer.

One solution to this problem is amending MCL 552.602(cc) to provide that a union is a source of income and require unions to transmit a copy of the IWO to all contractors that employ union members subject to court ordered support payments.

Under the proposed amendment, the Friend of the Court would serve the IWO on the union and the union would then transmit the order to the contractors that employ the payer. This proposed amendment would bring the union-union member relationship in line with other types of employer-employee relationships. The Legislature’s failure to address this problem has created significant enforcement hardships for support payees.

Endnotes

1. M.C.L. 552.602(cc)
2. M.C.L. 552.506(6)
3. M.C.L. 552.506(1)