

13TH CIRCUIT FRIEND OF THE COURT – Antrim, Grand Traverse & Leelanau Counties

General Instructions
Regarding Motion for Discharge of Surcharges

MCL 552.603d *effective 6/30/05* (copy attached) authorizes a party to apply to the Court for discharge of amounts assessed as surcharge and waiver of future surcharge. Such a plan can be granted under certain circumstances:

- A. The payor has no present ability and will not have an ability in the foreseeable future to pay the arrearage absent a payment plan that waives or discharges amounts assessed as surcharge.
- B. The Court is satisfied that the arrearage did not arise from conduct by the payor engaged in exclusively for the purpose of avoiding a support obligation.
- C. The plan is **reasonable** based on the payor's ability to pay.
- D. The surcharge accrued or will accrue after the effective date of the statute (6/30/05).

A **sample** motion form is attached. Court staff cannot advise you how to complete it. All motions must be filed with the court clerk (there is a \$20 motion fee) and copies must be provided to the other party, and/or the State of Michigan Office of Child Support, P O Box 30744, Lansing, MI 48909-8250 (if monies are owed to the State), the Friend of the Court and to the Court Administrator's Office. ***There will be a hearing and you must appear at the hearing or the motion will be dismissed.***

If the Court grants the motion, you must prepare and submit an order to the Court for entry. (Order for Discharge of Surcharges)

552.603d Repayment plan.

Sec. 3d.

(1) A party or the friend of the court may file a motion with the court for a repayment plan order that provides, subject to federal law or regulation, for discharge of amounts assessed as surcharge and for the waiver of future surcharge. The court shall enter the repayment plan order after notice and a hearing if the court finds that all of the following are true:

(a) The arrearage did not arise from conduct by the payer engaged in exclusively for the purpose of avoiding a support obligation.

(b) The payer has no present ability, and will not have an ability in the foreseeable future, to pay the arrearage absent a repayment plan that waives or discharges amounts assessed as surcharge.

(c) The payer's plan is reasonable based on the payer's current ability to pay.

(d) The surcharge accrued or will accrue after the effective date of the amendatory act that added this section.

(2) Following entry of a repayment plan order under subsection (1), upon notice and hearing if the court finds that the payer has failed substantially to comply with the repayment plan, the court shall enter an order reinstating the surcharge and all or a portion of the surcharge that was discharged.

History: Add. 2004, Act 208, Eff. June 30, 2005

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