

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 757

A bill to amend 1982 PA 295, entitled
"Support and parenting time enforcement act,"
by amending sections 31 and 32 (MCL 552.631 and 552.632), section
31 as as amended by 1996 PA 301 and section 32 as amended by 1999
PA 160.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 31. (1) If ~~any~~ A person ~~has been~~ IS ordered to pay
2 support under a support order and fails or refuses to obey and
3 perform the order, and if an order of income withholding is inap-
4 plicable or unsuccessful, a recipient of support or the office of
5 the friend of the court may commence a civil contempt proceeding
6 by filing in the circuit court a petition for an order to show
7 cause why the delinquent payer should not be held in contempt.
8 If the payer fails to appear in response to an order to show
9 cause, the court may issue a bench warrant requiring that the

1 payer be brought before the court without unnecessary delay to
2 answer and plead to that neglect or refusal.

3 (2) IN A BENCH WARRANT ISSUED UNDER THIS SECTION, THE COURT
4 SHALL REQUIRE THAT, UPON ARREST, UNLESS THE PAYER DEPOSITS A BOND
5 OR CASH IN THE MANNER REQUIRED BY SECTION 32, THE PAYER SHALL
6 REMAIN IN CUSTODY UNTIL THE TIME OF THE HEARING. EXCEPT AS OTH-
7 ERWISE PROVIDED IN THIS SECTION, THE BOND OR CASH AMOUNT SHALL BE
8 SET IN THE AMOUNT [OF AT LEAST 25%] OF THE ARREARAGE. [THE COURT MAY
9 SET THE REQUIRED DEPOSIT AT A DIFFERENT AMOUNT IF THE COURT
10 DETERMINES FROM THE FACTS OF THE CASE THAT REQUIRING BOND OR
11 CASH IN THE AMOUNT OF AT LEAST 25% OF THE ARREARAGE WOULD
12 BE UNJUST OR INAPPROPRIATE AND SETS FORTH IN WRITING OR ON THE
13 RECORD THE REASONS WHY REQUIRING BOND OR CASH IN SUCH AN
14 AMOUNT WOULD BE UNJUST OR INAPPROPRIATE.] AT ITS OWN DISCRETION,
THE COURT MAY ADD TO THE
15 AMOUNT OF THE REQUIRED DEPOSIT THE AMOUNT OF THE COSTS THE COURT
16 MAY REQUIRE UNDER SUBSECTION (3).

17 (3) ~~-(2)-~~ If the court issues a bench warrant under this
18 section, except for good cause shown on the record, the court
19 shall order the payer to pay the costs related to the hearing,
20 issuance of the warrant, arrest, and further hearings. Those
21 costs and costs ordered for failure to appear under sections 32
22 and 44 shall be transmitted to the county treasurer for distribu-
23 tion as required in section 2530 of ~~Act No. 236 of the Public~~
24 ~~Acts of 1961, being section 600.2530 of the Michigan Compiled~~
25 ~~Laws~~ THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236,
26 MCL 600.2530.

1 Sec. 32. (1) If a payer arrested under a bench warrant
2 issued under section 31 cannot be brought before the court within
3 24 hours, the payer may recognize for his or her appearance by
4 leaving with the sheriff or deputy sheriff in charge of the
5 county jail a ~~sum of money~~ BOND OR CASH in the amount
6 ~~determined by the court and stated in the bench warrant, but not~~
7 ~~to exceed the amount of arrearage under the support order that~~
8 ~~is stated on the bench warrant. plus costs that may be ordered~~
9 ~~if the payer fails to appear.~~

10 (2) The officer receiving a ~~deposit~~ BOND OR CASH under
11 subsection (1) shall give to the arrested payer a receipt for the
12 ~~money deposited with the officer~~ BOND OR CASH on a form as
13 follows:

14 Date _____

15 Received from _____ ~~the sum~~ A BOND OR CASH
16 IN THE AMOUNT of _____ dollars ~~as cash bail~~ to assure the
17 appearance of _____ before _____ circuit
18 court judge in the county of _____, at _____
19 on the ____ day of _____, 19__, to respond to an order
20 to show cause why he or she should not be held in contempt for
21 failure or refusal to obey or perform a support order. If the
22 payer fails to appear at the time and place indicated above,
23 fails to submit to the jurisdiction of the court, and fails to
24 abide by an order of the court, the ~~money~~ BOND OR CASH depos-
25 ited shall be transmitted to the friend of the court or to the
26 state disbursement unit for payment of the arrearage to the
27 recipient of support and of costs to the court. By depositing

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1 the ~~money~~ BOND OR CASH with the officer and accepting this
2 receipt, the recipient of this receipt waives a claim to the
3 money UNDER THE BOND OR TO THE CASH following its transmittal to
4 the friend of the court or to the SDU.

5

6

Officer: _____ Dept.: _____

7

(3) The officer receiving the ~~deposit~~ BOND OR CASH shall
8 in turn deposit the bond OR CASH received under this section with
9 the clerk of the court that issued the bench warrant.

10

(4) On the basis of the hearing on the order to show cause,
11 the court by order shall determine how much of the ~~money~~ BOND
12 OR CASH deposited under this section is to be transmitted to the
13 friend of the court or to the SDU for payment to 1 or more recip-
14 ients of support and shall return the balance, if any, to the
15 payer.

16

(5) If the payer fails to appear as required, the court
17 shall transmit the ~~deposit~~ BOND OR CASH to the friend of the
18 court or to the SDU for payment to 1 or more recipients of sup-
19 port and to the county treasurer for distribution as provided in
20 section 31. In addition, the court may again issue a bench war-
21 rant for the further appearance of the payer.

[(6) IF THE PAYER DOES NOT POST THE BOND OR CASH UNDER THIS
SECTION AND REMAINS IN CUSTODY, THE COURT SHALL HOLD THE SHOW CAUSE
HEARING WITHIN 72 HOURS AFTER THE ARREST.

Enacting section 1. The amendatory act takes effect October 1,
2000.]