

HOUSE BILL No. 5206

October 16, 2001, Introduced by Reps. Whitmer, Murphy, Kolb, Pappageorge, Zelenko, Rivet, Plakas, Basham, Jacobs, Neumann, Pestka, McConico, Adamini, Rich Brown, Bogardus and Thomas and referred to the Committee on Family and Children Services.

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), as
amended by 2000 PA 442.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 before the court without unnecessary delay to answer and plead to
2 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~~
5 ~~bond or~~ cash in the manner required by section 32, the payer
6 shall remain in custody until the time of the hearing. Except as
7 otherwise provided in this section, the ~~bond or~~ cash amount
8 shall be set at not less than \$500.00 or 25% of the arrearage,
9 whichever is greater. At its own discretion, the court may add
10 to the amount of the required deposit the amount of the costs the
11 court may require under subsection (3).

12 (3) If the court issues a bench warrant under this section,
13 except for good cause shown on the record, the court shall order
14 the payer to pay the costs related to the hearing, issuance of
15 the warrant, arrest, and further hearings. Those costs and costs
16 ordered for failure to appear under sections 32 and 44 shall be
17 transmitted to the county treasurer for distribution as required
18 in section 2530 of the revised judicature act of 1961, 1961
19 PA 236, MCL 600.2530.

20 Sec. 32. (1) If a payer arrested under a bench warrant
21 issued under section 31 cannot be brought before the court within
22 24 hours, the payer may recognize for his or her appearance by
23 leaving with the sheriff or deputy sheriff in charge of the
24 county jail ~~a bond or~~ cash in the amount stated on the bench
25 warrant.

1 (2) The officer receiving ~~a bond or~~ cash under subsection
2 (1) shall give to the arrested payer a receipt for the ~~bond or~~
3 cash on a form as follows:

4 Date _____

5 Received from _____ ~~a bond or~~ cash in the amount
6 of _____ dollars to assure the appearance of

7 _____ before _____ circuit court judge

8 in the county of _____, at _____ on the _____

9 day of _____, ~~19~~ 20__, to respond to an order to show

10 cause why he or she should not be held in contempt for failure or
11 refusal to obey or perform a support order. If the payer fails

12 to appear at the time and place indicated above, fails to submit

13 to the jurisdiction of the court, and fails to abide by an order

14 of the court, the ~~bond or~~ cash deposited shall be transmitted

15 to the friend of the court or to the state disbursement unit for

16 payment of the arrearage to the recipient of support and of costs

17 to the court. By depositing the ~~bond or~~ cash with the officer

18 and accepting this receipt, the recipient of this receipt waives

19 a claim ~~to the money under the bond or~~ to the cash following

20 its transmittal to the friend of the court or to the SDU.

21 _____

22 Officer: _____ Dept.: _____

23 (3) The officer receiving the ~~bond or~~ cash shall in turn

24 deposit the ~~bond or~~ cash received under this section with the

25 clerk of the court that issued the bench warrant.

26 (4) On the basis of the hearing on the order to show cause,

27 the court by order shall determine how much of the ~~bond or~~ cash

1 deposited under this section is to be transmitted to the friend
2 of the court or to the SDU for payment to 1 or more recipients of
3 support and shall return the balance, if any, to the payer.

4 (5) If the payer fails to appear as required, the court
5 shall transmit the ~~bond or~~ cash to the friend of the court or
6 to the SDU for payment to 1 or more recipients of support and to
7 the county treasurer for distribution as provided in section 31.
8 In addition, the court may again issue a bench warrant for the
9 further appearance of the payer.

10 (6) If the payer does not post the ~~bond or~~ cash under this
11 section and remains in custody, the court shall hold the show
12 cause hearing within ~~48~~ 72 hours after the arrest.