

SENATE BILL No. 520

September 19, 2013, Introduced by Senators EMMONS and COLBECK and referred to the Committee on Families, Seniors and Human Services.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 165 (MCL 750.165), as amended by 2004 PA 570.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 165. (1) If the court orders an individual to pay support
2 for the individual's former or current spouse, or for a child of
3 the individual, and the individual does not pay the support in the
4 amount or at the time stated in the order, the individual is guilty
5 of a felony punishable by imprisonment for not more than 4 years or
6 by a fine of not more than \$2,000.00, or both.

7 (2) This section does not apply unless the individual ordered
8 to pay support ~~appeared in, or received notice by personal service~~
9 ~~of, the action in which the support order was issued.~~**HAD NOTICE OF**
10 **THE ACTION IN WHICH THE SUPPORT ORDER WAS ISSUED AS EVIDENCED BY 1**

1 OR MORE OF THE FOLLOWING:

2 (A) PERSONAL SERVICE OF THE ACTION IN WHICH SUPPORT WAS
3 ORDERED.

4 (B) APPEARING IN THE ACTION IN WHICH SUPPORT WAS ORDERED.

5 (C) MAKING VOLUNTARY OR INVOLUNTARY PAYMENTS IN THE ACTION IN
6 WHICH THE SUPPORT WAS ORDERED.

7 (3) Unless the individual deposits a cash bond of not less
8 than \$500.00 or 25% of the arrearage, whichever is greater, upon
9 arrest for a violation of this section, the individual shall remain
10 in custody until the arraignment. If the individual remains in
11 custody, the court shall address the amount of the cash bond at the
12 arraignment and at the preliminary examination and, except for good
13 cause shown on the record, shall order the bond to be continued at
14 not less than \$500.00 or 25% of the arrearage, whichever is
15 greater. At the court's discretion, the court may set the cash bond
16 at an amount not more than 100% of the arrearage and add to that
17 amount the amount of the costs that the court may require under
18 section 31(3) of the support and parenting time enforcement act,
19 1982 PA 295, MCL 552.631. The court shall specify that the cash
20 bond amount be entered into the ~~L.E.I.N.~~ **LAW ENFORCEMENT**
21 **INFORMATION NETWORK**. If a bench warrant under section 31 of the
22 support and parenting time enforcement act, 1982 PA 295, MCL
23 552.631, is outstanding for an individual when the individual is
24 arrested for a violation of this section, the court shall notify
25 the court handling the civil support case under the support and
26 parenting time enforcement act, 1982 PA 295, MCL 552.601 to
27 552.650, that the bench warrant may be recalled.

1 (4) The court may suspend the sentence of an individual
2 convicted under this section if the individual files with the court
3 a bond in the amount and with the sureties the court requires. At a
4 minimum, the bond must be conditioned on the individual's
5 compliance with the support order. If the court suspends a sentence
6 under this subsection and the individual does not comply with the
7 support order or another condition on the bond, the court may order
8 the individual to appear and show cause why the court should not
9 impose the sentence and enforce the bond. After the hearing, the
10 court may enforce the bond or impose the sentence, or both, or may
11 permit the filing of a new bond and again suspend the sentence. The
12 court shall order a support amount enforced under this section to
13 be paid to the clerk or friend of the court or to the state
14 disbursement unit.

15 **(5) AN ORDER FOR RESTITUTION FOR A VIOLATION OF THIS SECTION**
16 **SHALL NOT INCLUDE A SEPARATE AWARD FOR THE UNPAID AMOUNT IN**
17 **ARREARAGE UNDER THE SUPPORT ORDER. THE RESTITUTION ORDER SHALL**
18 **REFERENCE THE SUPPORT ORDER AND DIRECT THE INDIVIDUAL TO PAY THE**
19 **UNPAID AMOUNT IN ARREARAGE UNDER THE SUPPORT ORDER PURSUANT TO THE**
20 **SUPPORT ORDER. THE COURT MAY IMPOSE SUCH TERMS AND CONDITIONS IN**
21 **THE RESTITUTION ORDER AS ARE APPROPRIATE TO ENSURE COMPLIANCE WITH**
22 **PAYMENT OF THE ARREARAGE DUE UNDER THE SUPPORT ORDER. AN ORDER OF**
23 **RESTITUTION MAY INCLUDE A SEPARATE AWARD FOR DAMAGES CAUSED BY THE**
24 **INDIVIDUAL'S VIOLATION OF THIS SECTION THAT HAVE NOT BEEN ADDRESSED**
25 **IN ANOTHER COURT ORDER.**

26 (6) ~~(5)~~—As used in this section, "state disbursement unit" or
27 "SDU" means the entity established in section 6 of the office of

1 child support act, 1971 PA 174, MCL 400.236.