

[No. 442]

(SB 757)

AN ACT to amend 1982 PA 295, entitled "An act to provide for and to supplement statutes that provide for the enforcement of support, health care, and parenting time orders with respect to divorce, separate maintenance, paternity, child custody, and spouse support; to prescribe certain provisions of those orders; to prescribe the powers and duties of the circuit court and friend of the court; to prescribe certain duties of certain employers and other sources of income; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending sections 31 and 32 (MCL 552.631 and 552.632), section 31 as amended by 1996 PA 301 and section 32 as amended by 1999 PA 160.

The People of the State of Michigan enact:

552.631 Failure or refusal to obey and perform support order; civil contempt proceeding; failure to appear; bench warrant; bond or cash deposit; payment and disposition of costs. [M.S.A. 25.164(31)]

Sec. 31. (1) If a person is ordered to pay support under a support order and fails or refuses to obey and perform the order, and if an order of income withholding is inapplicable or unsuccessful, a recipient of support or the office of the friend of the court may commence a civil contempt proceeding by filing in the circuit court a petition for an order to show cause why the delinquent payer should not be held in contempt. If the payer fails to appear in response to an order to show cause, the court may issue a bench warrant requiring that the payer be brought before the court without unnecessary delay to answer and plead to that neglect or refusal.

(2) In a bench warrant issued under this section, the court shall require that, upon arrest, unless the payer deposits a bond or cash in the manner required by section 32, the payer shall remain in custody until the time of the hearing. Except as otherwise provided in this section, the bond or cash amount shall be set at not less than \$500.00 or 25% of the arrearage, whichever is greater. At its own discretion, the court may add to the amount of the required deposit the amount of the costs the court may require under subsection (3).

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

552.632 Payer arrested under bench warrant; bond or cash deposit; receipt; form; depositing bond or cash with clerk; hearing on order to show cause; determination; failure to appear; failure to post bond or cash. [M.S.A. 25.164(32)]

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

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

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Date _____

Received from _____ a bond or cash in the amount of _____ dollars to assure the appearance of _____ before _____ circuit court judge in the county of _____, at _____ on the ____ day of _____, 19__, to respond to an order to show cause why he or she should not be held in contempt for failure or refusal to obey or perform a support order. If the payer fails to appear at the time and place indicated above, fails to submit to the jurisdiction of the court, and fails to abide by an order of the court, the bond or cash deposited shall be transmitted to the friend of the court or to the state disbursement unit for payment of the arrearage to the recipient of support and of costs to the court. By depositing the bond or cash with the officer and accepting this receipt, the recipient of this receipt waives a claim to the money under the bond or to the cash following its transmittal to the friend of the court or to the SDU.

Officer: _____ Dept.: _____

(3) The officer receiving the bond or cash shall in turn deposit the bond or cash received under this section with the clerk of the court that issued the bench warrant.

(4) On the basis of the hearing on the order to show cause, the court by order shall determine how much of the bond or cash deposited under this section is to be transmitted to the friend of the court or to the SDU for payment to 1 or more recipients of support and shall return the balance, if any, to the payer.

(5) If the payer fails to appear as required, the court shall transmit the bond or cash to the friend of the court or to the SDU for payment to 1 or more recipients of support and to the county treasurer for distribution as provided in section 31. In addition, the court may again issue a bench warrant 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 48 hours after the arrest.

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2001.

This act is ordered to take immediate effect.

Approved January 9, 2001.

Filed with Secretary of State January 9, 2001.
