



SENATE BILL No. 588

June 15, 1995, Introduced by Senators GEAKE, GOUGEON, HOFFMAN, SHUGARS, BYRUM, STILLE and PETERS and referred to the Committee on Families, Mental Health and Human Services.

A bill to amend sections 33, 35, 37, and 39 of Act No. 295 of the Public Acts of 1982, entitled as amended "Support and visitation enforcement act," section 35 as amended by Act No. 210 of the Public Acts of 1985, being sections 552.633, 552.635, 552.637, and 552.639 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 33, 35, 37, and 39 of Act No. 295 of
2 the Public Acts of 1982, section 35 as amended by Act No. 210 of
3 the Public Acts of 1985, being sections 552.633, 552.635,
4 552.637, and 552.639 of the Michigan Compiled Laws, are amended
5 to read as follows:

6 Sec. 33. (1) The court may find a payer in contempt if the
7 court finds that the payer is in arrears and if the court is
8 satisfied that the payer has the capacity to pay out of currently

1 available resources all or some portion of the amount due under
2 the support order. In the absence of proofs to the contrary
3 introduced by the payer, the court shall presume that the payer
4 has currently available resources equal to 4 weeks of payments
5 under the support order. The court shall not find that the payer
6 has currently available resources of more than 4 weeks of pay-
7 ments without proof of ~~such~~ THOSE resources by the office of
8 the friend of the court or the recipient of support.

9 (2) Upon finding a payer in contempt of court under this
10 section, IF THE PAYER IS NOT EMPLOYED WHEN THE COURT MAKES THE
11 FINDING OF CONTEMPT, the court may immediately enter 1 of the
12 following orders:

13 ~~(a) Committing the payer to the county jail.~~

14 (A) ~~(b) Committing~~ AN ORDER COMMITTING the payer to the
15 county jail with the privilege of leaving the jail, during ~~such~~
16 THE hours ~~as~~ the court determines and under ~~such~~ THE supervi-
17 sion ~~as~~ the court considers necessary, for the purpose of
18 allowing the payer to go to and return from ~~his or her place of~~
19 ANY employment HE OR SHE MAY OBTAIN OR, IF THE PAYER WISHES TO
20 SEEK EMPLOYMENT, TO SEEK EMPLOYMENT.

21 (B) ~~(c) Committing~~ AN ORDER COMMITTING the payer to ~~any~~
22 A penal or correctional facility in this state ~~which~~ THAT is
23 not operated by the state department of corrections.

24 (3) UPON FINDING A PAYER IN CONTEMPT OF COURT UNDER THIS
25 SECTION, IF THE PAYER IS EMPLOYED WHEN THE COURT MAKES THE FIND-
26 ING OF CONTEMPT, THE COURT SHALL INFORM THE OFFICE OF THE FRIEND

1 OF THE COURT OF THE PAYER'S PLACE OF EMPLOYMENT AND MAY ENTER 1
2 OF THE FOLLOWING ORDERS:

3 (A) AN ORDER COMMITTING THE PAYER TO THE COUNTY JAIL, DURING
4 THE HOURS THE COURT DETERMINES AND UNDER THE SUPERVISION THE
5 COURT CONSIDERS NECESSARY, FOR THE PURPOSE OF ALLOWING THE PAYER
6 TO GO TO AND RETURN FROM HIS OR HER PLACE OF EMPLOYMENT.

7 (B) AN ORDER REQUIRING THE PAYER TO SUBMIT TO AN ELECTRONIC
8 TETHER, WHICH SHALL ALLOW THE PAYER TO BE AWAY FROM HIS OR HER
9 RESIDENCE ONLY DURING THE HOURS OF HIS OR HER EMPLOYMENT, AND
10 DURING THE TIMES REQUIRED TO TRAVEL TO AND FROM THAT PLACE OF
11 EMPLOYMENT.

12 Sec. 35. (1) The court may find a payer in contempt if the
13 court finds that the payer is in arrears and if the court is sat-
14 isfied that by the exercise of diligence the payer could have the
15 capacity to pay all or some portion of the amount due under the
16 support order and has failed or refused to do so.

17 (2) Upon finding a payer in contempt of court under this
18 section, IF THE PAYER IS NOT EMPLOYED WHEN THE COURT MAKES THE
19 FINDING OF CONTEMPT, the court may immediately enter an order
20 committing the payer to the county jail with the privilege of
21 leaving the jail, during ~~such~~ THE hours ~~as~~ the court deter-
22 mines and under ~~such~~ THE supervision ~~as~~ the court considers
23 necessary, for the purpose of allowing the payer to go to and
24 return from ~~his or her place of~~ ANY employment HE OR SHE MAY
25 OBTAIN or, if the ~~person~~ PAYER wishes to seek employment, to
26 seek employment.

1 (3) UPON FINDING A PAYER IN CONTEMPT OF COURT UNDER THIS
2 SECTION, IF THE PAYER IS EMPLOYED WHEN THE COURT MAKES THE
3 FINDING OF CONTEMPT, THE COURT SHALL INFORM THE OFFICE OF THE
4 FRIEND OF THE COURT OF THE PAYER'S PLACE OF EMPLOYMENT AND MAY
5 ENTER 1 OF THE FOLLOWING ORDERS:

6 (A) AN ORDER COMMITTING THE PAYER TO THE COUNTY JAIL, DURING
7 THE HOURS THE COURT DETERMINES AND UNDER THE SUPERVISION THE
8 COURT CONSIDERS NECESSARY, FOR THE PURPOSE OF ALLOWING THE PAYER
9 TO GO TO AND RETURN FROM HIS OR HER PLACE OF EMPLOYMENT.

10 (B) AN ORDER REQUIRING THE PAYER TO SUBMIT TO AN ELECTRONIC
11 TETHER, WHICH SHALL ALLOW THE PAYER TO BE AWAY FROM HIS OR HER
12 RESIDENCE ONLY DURING THE HOURS OF HIS OR HER EMPLOYMENT, AND
13 DURING THE TIMES REQUIRED TO TRAVEL TO AND FROM THAT PLACE OF
14 EMPLOYMENT.

15 (4) ~~(3)~~ Notwithstanding the length of commitment imposed
16 under this section, an unemployed payer committed to a county
17 jail under this section who finds employment shall be released
18 from jail if either of the following applies:

19 (a) The payer is self-employed and has completed 2 consecu-
20 tive weeks at his or her employment.

21 (b) The payer is employed and has completed 2 consecutive
22 weeks at his or her employment and an order of income withholding
23 is effective.

24 Sec. 37. ~~(1) An order of commitment under section 33 or 35~~
25 ~~shall be entered only if other remedies appear unlikely to cor-~~
26 ~~rect the payer's failure or refusal to pay support.~~

1 (1) ~~(2)~~ An order of commitment under section 33 shall
2 separately state both of the following:

3 (a) The amount of the arrearage under the support order.

4 (b) The amount to be paid by the payer in order to be
5 released from the order of commitment, which amount may not be
6 greater than the payer's currently available resources as found
7 by the court.

8 (2) ~~(3)~~ An order of commitment under section 35 shall sep-
9 arately state both of the following:

10 (a) The amount of arrearage under the support order.

11 (b) The amount to be paid in order to be released from the
12 order of commitment.

13 (3) ~~(4)~~ A commitment shall continue until the amount
14 ordered to be paid under subsection ~~(2)(b) or (3)(b)~~ (1)(B) OR
15 (2)(B) is paid. ~~but shall not exceed 45 days for the first~~
16 ~~adjudication of contempt or 90 days for any subsequent adjudica-~~
17 ~~tion of contempt.~~

18 (4) ~~(5)~~ The court may further direct that any portion or
19 all of the earnings of the payer in the facility or institution
20 shall be paid to and applied for support until the payer has com-
21 plied with the order of the court, until the payer is released
22 ~~pursuant to this section~~ from an order of commitment, or until
23 the further order of the court. If it appears that the state or
24 county department of social services, or a local office of the
25 state department of social services, has contributed towards the
26 support of the minor child or children during the period of
27 noncompliance with the order of the court, the court, in the

1 contempt proceedings, may order all or part of any lump sum
2 payment to the office of the friend of the court or county clerk
3 to be paid to that department or local office not to exceed the
4 amount of the contribution made by that department or local
5 office. The court may order the money paid to the person or per-
6 sons entitled to the money in weekly or monthly installments by
7 the office of the friend of the court or county clerk to the
8 extent that the court considers installments necessary for
9 support.

10 Sec. 39. (1) If a payer is committed to jail OR ELECTRONIC
11 TETHER under section ~~33(b)~~ 33(2) OR (3) or 35(2) OR (3) WITH
12 THE PRIVILEGE OF ATTENDING HIS OR HER PLACE OF EMPLOYMENT OR
13 SEEKING EMPLOYMENT, and THE PAYER violates the conditions of the
14 court ORDER, the court shall commit the payer to the county jail
15 without the privilege ~~provided under section 33(b) or 35(2)~~ OF
16 ATTENDING HIS OR HER PLACE OF EMPLOYMENT OR SEEKING EMPLOYMENT
17 for the balance of the period of the commitment imposed by the
18 court.

19 (2) If a payer is committed to jail OR ELECTRONIC TETHER
20 under section ~~33(b)~~ 33(2) OR (3) or 35(2) OR (3) and fails to
21 return to the ~~place of confinement within the time~~ JAIL OR THE
22 RESIDENCE AS prescribed BY THE COURT ORDER, the payer shall be
23 considered to have escaped from custody and ~~shall be~~ IS guilty
24 of a misdemeanor, punishable by imprisonment for not more than 1
25 year.