



SENATE BILL No. 593

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

A bill to amend sections 31, 32, and 44 of Act No. 295 of the Public Acts of 1982, entitled as amended "Support and visitation enforcement act," sections 31 and 32 as amended by Act No. 108 of the Public Acts of 1983 and section 44 as amended by Act No. 210 of the Public Acts of 1985, being sections 552.631, 552.632, and 552.644 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 31, 32, and 44 of Act No. 295 of the
2 Public Acts of 1982, sections 31 and 32 as amended by Act No. 108
3 of the Public Acts of 1983 and section 44 as amended by Act
4 No. 210 of the Public Acts of 1985, being sections 552.631,
5 552.632, and 552.644 of the Michigan Compiled Laws, are amended
6 to read as follows:

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

12 (2) IF THE COURT ISSUES A BENCH WARRANT UNDER THIS SECTION,
13 THE COURT SHALL ORDER THE PAYER TO PAY THE COSTS RELATED TO THE
14 HEARING, ISSUANCE OF THE WARRANT, ARREST, AND FURTHER HEARINGS.
15 THOSE COSTS AND COSTS ORDERED FOR FAILURE TO APPEAR UNDER SEC-
16 TIONS 32 AND 44 SHALL BE TRANSMITTED TO THE COUNTY TREASURER FOR
17 DISTRIBUTION AS REQUIRED IN SECTION 2530 OF ACT NO. 236 OF THE
18 PUBLIC ACTS OF 1961, BEING SECTION 600.2530 OF THE MICHIGAN
19 COMPILED LAWS.

20 Sec. 32. (1) A payer who is arrested ~~pursuant to~~ UNDER a
21 bench warrant issued after June 30, 1983, under section 31, and
22 who cannot be brought before the court within 24 hours may recog-
23 nize for his or her appearance by leaving with the sheriff or
24 deputy sheriff in charge of the county jail a sum of money in the
25 amount determined by the court and stated in the bench warrant
26 but not to exceed the amount of arrearage under the support order

1 ~~which~~ THAT is stated on the bench warrant PLUS COSTS THAT WILL
2 BE ORDERED IF THE PAYER FAILS TO APPEAR.

3 (2) A payer who is arrested ~~pursuant to~~ UNDER a bench war-
4 rant issued before July 1, 1983, and who cannot be brought before
5 the court within 24 hours may recognize for his or her appearance
6 by leaving with the sheriff or deputy sheriff in charge of the
7 county jail a sum of money determined as follows:

8 (a) If the amount of the bond is specified on the bench war-
9 rant, that specified amount.

10 (b) If the amount of the bond is not specified on the bench
11 warrant, the payer shall be taken without unnecessary delay
12 before the most convenient district judge or district court mag-
13 istrate to determine the amount of the bond.

14 (3) The officer receiving the deposit shall give to the
15 arrested payer a receipt for the money so deposited with the
16 officer on a form as follows:

17 Date _____
18 Received from _____ the sum of _____
19 dollars as cash bail to assure the appearance of
20 _____ before _____ circuit court judge
21 in the county of _____, at _____ on the _____
22 day of _____, 19__, to respond to an order to show
23 cause why he or she should not be held in contempt for failure or
24 refusal to obey or perform a support order. If the payer fails
25 to appear at the time and place indicated above and submit to the
26 jurisdiction of the court and stand to and abide by any order of
27 the court, the money deposited shall be transmitted to the friend

1 of the court for payment OF THE ARREARAGE to the recipient of
 2 support AND OF COSTS TO THE COURT. By depositing the money with
 3 the officer and accepting this receipt, the recipient of this
 4 receipt waives any and all claim to the money following its
 5 transmittal to the friend of the court.

6

7

 Officer: _____ Dept.: _____

8 (4) The officer receiving the deposit shall in turn deposit
 9 the bond received under this section with the clerk of the court
 10 ~~which~~ THAT issued the bench warrant.

11 (5) On the basis of the hearing on the order to show cause,
 12 the court by order shall determine how much of the money depos-
 13 ited under this section is to be transmitted to the friend of the
 14 court for payment to 1 or more recipients of support and shall
 15 return the balance, if any, to the payer.

16 (6) If the payer fails to appear as required, the court
 17 shall transmit the deposit to the friend of the court for payment
 18 to 1 or more recipients of support ~~, and in~~ AND TO THE COUNTY
 19 TREASURER FOR DISTRIBUTION AS PROVIDED IN SECTION 31. IN addi-
 20 tion the court may again issue a bench warrant for the further
 21 appearance of the payer.

22 Sec. 44. (1) If the office of the friend of the court
 23 determines that action should be taken under section 41(1)(b),
 24 the office of the friend of the court shall commence a civil con-
 25 tempt proceeding to resolve a dispute concerning visitation of a
 26 minor child by filing with the circuit court a petition for an
 27 order to show cause why either parent who has violated a

1 visitation order should not be held in contempt. IF A PARTY
2 FAILS TO APPEAR IN RESPONSE TO AN ORDER TO SHOW CAUSE, THE COURT
3 MAY ISSUE A BENCH WARRANT REQUIRING THAT THE PARTY BE BROUGHT
4 BEFORE THE COURT WITHOUT UNNECESSARY DELAY TO SHOW CAUSE WHY THE
5 PARTY SHOULD NOT BE HELD IN CONTEMPT. THE COURT SHALL FURTHER
6 ORDER THE PARTY TO PAY THE COSTS OF THE HEARING, ISSUANCE OF THE
7 WARRANT, ARREST, AND FURTHER HEARINGS, WHICH COSTS SHALL BE
8 TRANSMITTED TO THE COUNTY TREASURER FOR DISTRIBUTION AS PROVIDED
9 IN SECTION 31.

10 (2) If the court finds that either parent has violated a
11 visitation order, the court shall find that parent in contempt
12 and may do 1 or more of the following:

13 (a) Require additional terms and conditions consistent with
14 the court's visitation order.

15 (b) After notice to both parties and a hearing, if requested
16 by a party, on any proposed modification of visitation, modify
17 the visitation order to meet the best interests of the child.

18 (c) Order that makeup visitation be provided for the noncus-
19 todial parent to take the place of wrongfully denied visitation.

20 (d) Order the parent to pay a fine of not more than
21 \$100.00.

22 (e) Commit the parent to the county jail.

23 (f) Commit the parent to the county jail with the privilege
24 of leaving the jail, during ~~such~~ THE hours ~~as~~ the court
25 determines and under ~~such~~ THE supervision ~~as~~ the court con-
26 sidered necessary, for the purpose of allowing the parent to go to
27 and return from his or her place of employment.

1 (3) A commitment under subsection (2)(e) or (f) shall not
2 exceed 45 days for the first finding of contempt or 90 days for
3 any subsequent finding of contempt.

4 (4) A parent committed under subsection (2)(e) or (f) shall
5 be released if the court has reasonable cause to believe that the
6 parent will comply with the visitation order.

7 Section 2. This amendatory act shall not take effect unless
8 Senate Bill No. 594
9 of the 88th Legislature is enacted into law.