

HOUSE BILL No. 4404

March 4, 1997, Introduced by Reps. Wallace, Baird, Hale, Martinez, Callahan, Hanley, Scott, Varga, Parks and Brater and referred to the Committee on Judiciary.

A bill to amend 1982 PA 295, entitled
"Support and parenting time enforcement act,"
by amending sections 33, 35, and 39 (MCL 552.633, 552.635, and
552.639), sections 33 and 35 as amended by 1996 PA 336.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 33. (1) The court may find a payer in contempt if the
2 court finds that the payer is in arrears and if the court is sat-
3 isfied that the payer has the capacity to pay out of currently
4 available resources all or some portion of the amount due under
5 the support order. In the absence of proofs to the contrary
6 introduced by the payer, the court shall presume that the payer
7 has currently available resources equal to 4 weeks of payments
8 under the support order. The court shall not find that the payer
9 has currently available resources of more than 4 weeks of

1 payments without proof of those resources by the office of the
2 friend of the court or the recipient of support.

3 (2) Upon finding a payer in contempt of court under this
4 section AND SUBJECT TO SUBSECTION (4), the court may immediately
5 enter an order doing 1 of the following:

6 (a) Committing the payer to the county jail.

7 (b) Committing the payer to the county jail with the privi-
8 lege of leaving the jail during the hours the court determines,
9 and under the supervision the court considers, necessary for the
10 purpose of allowing the payer to go to and return from his or her
11 place of employment.

12 (c) Committing the payer to a penal or correctional facility
13 in this state that is not operated by the state department of
14 corrections.

15 (d) If the payer holds an occupational or driver's license,
16 conditioning a suspension of the payer's occupational or driver's
17 license, or both, upon noncompliance with an order for payment of
18 the arrearage in 1 or more scheduled installments of a sum
19 certain. A court shall not order the sanction authorized by this
20 subdivision unless the court finds that the payer has accrued an
21 arrearage of support payments in an amount greater than the
22 amount of periodic support payments payable for 3 months under
23 the payer's support order.

24 (3) ~~-(2)-~~ If the court enters an order under subsection
25 ~~-(1)(d)-~~ (2)(D) and the payer fails to comply with the arrearage
26 payment schedule, after notice and opportunity for a hearing, the

1 court shall order suspension of the payer's occupational or
2 driver's license, or both, and proceed under section 30.

3 (4) IF THE COURT DECIDES TO INCARCERATE A PAYER WHO IS FOUND
4 IN CONTEMPT AND THE PAYER PROVES THAT HE OR SHE IS EMPLOYED, THE
5 COURT SHALL ENTER AN ORDER THAT ALLOWS THE PRIVILEGE PROVIDED
6 UNDER SUBSECTION (2)(B) AND SHALL INFORM THE OFFICE OF THE FRIEND
7 OF THE COURT OF THE PAYER'S PLACE OF EMPLOYMENT.

8 Sec. 35. (1) The court may find a payer in contempt if the
9 court finds that the payer is in arrears and if the court is sat-
10 isfied that by the exercise of diligence the payer could have the
11 capacity to pay all or some portion of the amount due under the
12 support order and that the payer fails or refuses to do so.

13 (2) Upon finding a payer in contempt of court under this
14 section, the court may immediately enter an order doing either of
15 the following:

16 (a) Committing the payer to the county jail with the privi-
17 lege of leaving the jail during the hours the court determines,
18 and under the supervision the court considers, necessary for the
19 purpose of allowing the payer to go to and return from his or her
20 place of employment or, if the ~~person~~ PAYER wishes to seek
21 employment, to seek employment. IF THE COURT DECIDES TO INCAR-
22 CERATE A PAYER WHO IS FOUND IN CONTEMPT AND THE PAYER PROVES THAT
23 HE OR SHE IS EMPLOYED, THE COURT SHALL ENTER AN ORDER THAT ALLOWS
24 THE PRIVILEGE PROVIDED UNDER THIS SUBSECTION AND SHALL INFORM THE
25 OFFICE OF THE FRIEND OF THE COURT OF THE PAYER'S PLACE OF
26 EMPLOYMENT.

1 (b) If the payer holds an occupational or driver's license,
2 conditioning a suspension of the payer's occupational or driver's
3 license, or both, upon noncompliance with an order for payment of
4 the arrearage in 1 or more scheduled installments of a sum
5 certain. A court shall not order the sanction authorized by this
6 subdivision unless the court finds that the payer has accrued an
7 arrearage of support payments in an amount greater than the
8 amount of periodic support payments payable for 3 months under
9 the payer's support order.

10 (3) Notwithstanding the length of commitment imposed under
11 this section, an unemployed payer committed to a county jail
12 under this section who finds employment shall be released from
13 jail if either of the following applies:

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

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

19 (4) If the court enters an order under subsection (2)(b) and
20 the payer fails to comply with the arrearage payment schedule,
21 after notice and an opportunity for a hearing, the court shall
22 order suspension of the payer's occupational or driver's license,
23 or both, and proceed under section 30.

24 Sec. 39. (1) If a payer is committed to jail under section
25 ~~33(b)~~ 33(2)(B) or ~~35(2)~~ 35(2)(A) and violates the conditions
26 of the court, the court shall commit the payer to the county jail
27 without the privilege provided under section ~~33(b)~~ 33(2)(B) or

1 ~~35(2)~~ 35(2)(A) for the balance of the period of the commitment
2 imposed by the court.

3 (2) If a payer is committed to jail under section ~~33(b)~~
4 33(2)(B) or ~~35(2)~~ 35(2)(A) and fails to return to the place of
5 confinement within the time prescribed, the payer shall be con-
6 sidered to have escaped from custody and ~~shall be~~ IS guilty of
7 a misdemeanor, punishable by imprisonment for not more than 1
8 year.