

HOUSE BILL No. 4826

June 17, 1999, Introduced by Rep. Hart and referred to the Committee on Family and Children Services.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 165. ~~Refusing to support wife or children as~~
2 ~~required in decree of separate maintenance or divorce or order of~~
3 ~~court--Where in any decree of divorce, or decree of separate~~
4 ~~maintenance granted in this state, or by order entered during the~~
5 ~~pendency of any such proceedings, if personal service is had upon~~
6 ~~the husband or upon the father of any minor child or children,~~
7 ~~under the age of 17 years, or such husband or father shall have~~
8 ~~entered an appearance in such proceedings either as plaintiff or~~
9 ~~defendant, the court shall order such husband to pay any amount~~
10 ~~to the clerk or friend of the court for the support of any wife~~
11 ~~or former wife who by reason of any physical or mental affliction~~

~~1 is unable to support herself, or father to pay any amount to the
2 clerk or friend of the court for the support of such minor child
3 or children, and said husband or father shall refuse or neglect
4 to pay such amount at the time stated in such order and shall
5 leave the state of Michigan, said husband or father shall be
6 guilty of a felony: Provided, however, If at any time before
7 sentence he shall enter into bond to the people of the state of
8 Michigan, in such penal sum and with such surety or sureties as
9 the court may fix, conditioned that he will comply with the terms
10 of such order or decree, then the court may suspend sentence
11 therein: Provided further, That upon failure of such person to
12 comply with said undertaking he may be ordered to appear before
13 the court and show cause why sentence should not be imposed,
14 whereupon the court may pass sentence, or for good cause shown
15 may modify the order and take a new undertaking and further sus=
16 pend sentence as may be just and proper.~~

17 (1) IF, IN A JUDGMENT OF DIVORCE OR SEPARATE MAINTENANCE OR
18 IN A TEMPORARY SUPPORT ORDER, THE COURT ORDERS AN INDIVIDUAL TO
19 PAY SUPPORT FOR THE INDIVIDUAL'S FORMER OR CURRENT SPOUSE WHO IS
20 UNABLE TO SUPPORT HIMSELF OR HERSELF BECAUSE OF A PHYSICAL OR
21 MENTAL AFFLICTION, OR FOR A CHILD OF THE INDIVIDUAL AND THE CHILD
22 IS LESS THAN 17 YEARS OLD, AND THE INDIVIDUAL DOES NOT PAY THE
23 SUPPORT IN THE AMOUNT OR AT THE TIME STATED IN THE ORDER, THE
24 INDIVIDUAL IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR
25 NOT MORE THAN 4 YEARS OR BY A FINE OF NOT MORE THAN \$2,000.00, OR
26 BOTH.

1 (2) THIS SECTION DOES NOT APPLY UNLESS THE INDIVIDUAL
2 ORDERED TO PAY SUPPORT APPEARED IN, OR RECEIVED NOTICE BY
3 PERSONAL SERVICE OF, THE ACTION IN WHICH THE SUPPORT ORDER WAS
4 ISSUED.

5 (3) THE COURT MAY SUSPEND THE SENTENCE OF AN INDIVIDUAL CON-
6 VICTED UNDER THIS SECTION IF THE INDIVIDUAL FILES WITH THE COURT
7 A BOND IN THE AMOUNT AND WITH THE SURETIES THE COURT REQUIRES.
8 AT A MINIMUM, THE BOND MUST BE CONDITIONED ON THE INDIVIDUAL'S
9 COMPLIANCE WITH THE SUPPORT ORDER. IF THE COURT SUSPENDS A SEN-
10 TENCE UNDER THIS SUBSECTION AND THE INDIVIDUAL DOES NOT COMPLY
11 WITH THE SUPPORT ORDER OR ANOTHER CONDITION ON THE BOND, THE
12 COURT MAY ORDER THE INDIVIDUAL TO APPEAR AND SHOW CAUSE WHY THE
13 COURT SHOULD NOT IMPOSE THE SENTENCE AND ENFORCE THE BOND. AFTER
14 THE HEARING, THE COURT MAY ENFORCE THE BOND OR IMPOSE THE SEN-
15 TENCE, OR BOTH, OR MAY PERMIT THE FILING OF A NEW BOND AND AGAIN
16 SUSPEND THE SENTENCE.

17 Enacting section 1. This amendatory act does not take
18 effect unless Senate Bill No. _____ or House Bill No. _____
19 (request no. 03398'99) of the 90th Legislature is enacted into
20 law.