

**SUBSTITUTE FOR
HOUSE BILL NO. 6006**

A bill to amend 1982 PA 295, entitled
"Support and parenting time enforcement act,"
by amending sections 2, 31, 32, 33, and 35 (MCL 552.602, 552.631,
552.632, 552.633, and 552.635), section 2 as amended by 1999
PA 160, sections 31 and 32 as amended by 2000 PA 442, and sec-
tions 33 and 35 as amended by 1998 PA 334.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. As used in this act:
- 2 (a) "Account" means any of the following:
- 3 (i) A demand deposit account.
- 4 (ii) A draft account.
- 5 (iii) A checking account.
- 6 (iv) A negotiable order of withdrawal account.
- 7 (v) A share account.

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1 (vi) A savings account.

2 (vii) A time savings account.

3 (viii) A mutual fund account.

4 (ix) A securities brokerage account.

5 (x) A money market account.

6 (xi) A retail investment account.

7 (b) "Account" does not mean any of the following:

8 (i) A trust.

9 (ii) An annuity.

10 (iii) A qualified individual retirement account.

11 (iv) An account covered by the employee retirement income
12 security act of 1974, Public Law 93-406, 88 Stat. 829.

13 (v) A pension or retirement plan.

14 (vi) An insurance policy.

15 (c) "Address" means the primary address shown on the records
16 of a financial institution used by the financial institution to
17 contact the account holder.

18 (D) "CASH" MEANS MONEY OR THE EQUIVALENT OF MONEY, SUCH AS A
19 MONEY ORDER, CASHIER'S CHECK, OR NEGOTIABLE CHECK OR A PAYMENT BY
20 DEBIT OR CREDIT CARD, WHICH EQUIVALENT IS ACCEPTED AS CASH BY THE
21 AGENCY ACCEPTING THE PAYMENT.

22 (E) "CUSTODY OR PARENTING TIME ORDER VIOLATION" MEANS AN
23 INDIVIDUAL'S ACT OR FAILURE TO ACT THAT INTERFERES WITH A
24 PARENT'S RIGHT TO INTERACT WITH HIS OR HER CHILD IN THE TIME,
25 PLACE, AND MANNER ESTABLISHED IN THE ORDER THAT GOVERNS CUSTODY
26 OR PARENTING TIME BETWEEN THE PARENT AND THE CHILD AND TO WHICH
27 THE INDIVIDUAL ACCUSED OF INTERFERING IS SUBJECT.

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1 (F) ~~-(d)-~~ "Department" means the family independence
2 agency.

3 (G) "DOMESTIC RELATIONS MATTER" MEANS A CIRCUIT COURT PRO-
4 CEEDING AS TO CHILD CUSTODY OR PARENTING TIME, OR CHILD OR SPOU-
5 SAL SUPPORT, THAT ARISES OUT OF LITIGATION UNDER A STATUTE OF
6 THIS STATE, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

7 (i) 1846 RS 84, MCL 552.1 TO 552.45.

8 (ii) THE FAMILY SUPPORT ACT, 1966 PA 138, MCL 552.451 TO
9 552.459.

10 (iii) CHILD CUSTODY ACT OF 1970, 1970 PA 91, MCL 722.21 TO
11 722.31.

12 (iv) 1968 PA 293, MCL 722.1 TO 722.6.

13 (v) THE PATERNITY ACT, 1956 PA 205, MCL 722.711 TO 722.730.

14 (vi) REVISED UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT,
15 1952 PA 8, MCL 780.151 TO 780.183.

16 (vii) THE UNIFORM INTERSTATE FAMILY SUPPORT ACT, 1996
17 PA 310, MCL 552.1101 TO 552.1901.

18 (H) ~~-(e)-~~ "Driver's license" means license as that term is
19 defined in section 25 of the Michigan vehicle code, 1949 PA 300,
20 MCL 257.25.

21 (I) ~~-(f)-~~ "Employer" means an individual, sole proprietor-
22 ship, partnership, association, or private or public corporation,
23 the United States or a federal agency, this state or a political
24 subdivision of this state, another state or a political subdivi-
25 sion of another state, or another legal entity that hires and
26 pays an individual for his or her services.

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1 (J) ~~(g)~~ "Financial asset" means a deposit, account, money
2 market fund, stock, bond, or similar instrument.

3 (K) ~~(h)~~ "Financial institution" means any of the
4 following:

5 (i) A state or national bank.

6 (ii) A state or federally chartered savings and loan
7 association.

8 (iii) A state or federally chartered savings bank.

9 (iv) A state or federally chartered credit union.

10 (v) An insurance company.

11 (vi) An entity that offers any of the following to a resi-
12 dent of this state:

13 (A) A mutual fund account.

14 (B) A securities brokerage account.

15 (C) A money market account.

16 (D) A retail investment account.

17 (vii) An entity regulated by the securities and exchange
18 commission that collects funds from the public.

19 (viii) An entity that is a member of the national associa-
20 tion of securities dealers and that collects funds from the
21 public.

22 (ix) Another entity that collects funds from the public.

23 (l) ~~(i)~~ "Friend of the court act" means 1982 PA 294, MCL
24 552.501 to 552.535.

25 (M) ~~(j)~~ "Income" means any of the following:

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1 (i) Commissions, earnings, salaries, wages, and other income
2 due or to be due in the future to an individual from his or her
3 employer and successor employers.

4 (ii) A payment due or to be due in the future to an individ-
5 ual from a profit-sharing plan, a pension plan, an insurance con-
6 tract, an annuity, social security, unemployment compensation,
7 supplemental unemployment benefits, or worker's compensation.

8 (iii) An amount of money that is due to an individual as a
9 debt of another individual, partnership, association, or private
10 or public corporation, the United States or a federal agency,
11 this state or a political subdivision of this state, another
12 state or a political subdivision of another state, or another
13 legal entity that is indebted to the individual.

14 (N) ~~-(K)-~~ "Insurer" means an insurer, health maintenance
15 organization, health care corporation, or other group, plan, or
16 entity that provides health care coverage in accordance with any
17 of the following acts:

18 (i) The public health code, 1978 PA 368, MCL 333.1101 to
19 333.25211.

20 (ii) The insurance code of 1956, 1956 PA 218, MCL 500.100 to
21 500.8302.

22 (iii) The nonprofit health care corporation reform act, 1980
23 PA 350, MCL 550.1101 to 550.1704.

24 (O) ~~-(I)-~~ "Medical assistance" means medical assistance as
25 established under title XIX of the social security act, chapter
26 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396f, 1396g-1 to 1396r-6,
27 and 1396r-8 to 1396v.

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1 (P) ~~-(m)-~~ "Occupational license" means a certificate,
2 registration, or license issued by a state department, bureau, or
3 agency that has regulatory authority over an individual that
4 allows an individual to legally engage in a regulated occupation
5 or that allows the individual to use a specific title in the
6 practice of an occupation, profession, or vocation.

7 (Q) ~~-(n)-~~ "Office of child support" means the office of
8 child support established in section 2 of the office of child
9 support act, 1971 PA 174, MCL 400.232.

10 (R) ~~-(o)-~~ "Office of the friend of the court" means an
11 agency created in section 3 of the friend of the court act, MCL
12 552.503.

13 (S) ~~-(p)-~~ "Order of income withholding" means an order
14 entered by the circuit court providing for the withholding of a
15 payer's income to enforce a support order under this act.

16 (T) ~~-(q)-~~ "Payer" means an individual who is ordered by the
17 circuit court to pay support.

18 (U) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
19 ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

20 (V) ~~-(r)-~~ "Plan administrator" means that term as used in
21 relation to a group health plan under section 609 of part 6 of
22 subtitle B of title I of the employee retirement income security
23 act of 1974, Public Law 93-406, 29 U.S.C. 1169, if the health
24 care coverage plan of the individual who is responsible for pro-
25 viding a child with health care coverage is subject to that act.

26 (W) ~~-(s)-~~ "Political subdivision" means a county, city,
27 village, township, educational institution, school district, or

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1 special district or authority of the state or of a local unit of
2 government.

3 (X) ~~(t)~~ "Recipient of support" means the following:

4 (i) The spouse, if the support order orders spousal
5 support.

6 (ii) The custodial parent or guardian, if the support order
7 orders support for a minor child or a child who is 18 years of
8 age or older.

9 (iii) The department, if support has been assigned to that
10 department.

11 (Y) ~~(u)~~ "Recreational or sporting license" means a hunt-
12 ing, fishing, or fur harvester's license issued under the natural
13 resources and environmental protection act, 1994 PA 451, MCL
14 324.101 to 324.90106, but does not include a commercial fishing
15 license or permit issued under part 473 of the natural resources
16 and environmental protection act, 1994 PA 451, MCL 324.47301 to
17 324.47362.

18 (Z) ~~(v)~~ "Referee" means a person who is designated as a
19 referee under the friend of the court act.

20 (AA) ~~(w)~~ "Source of income" means an employer or successor
21 employer or another individual or entity that owes or will owe
22 income to the payer.

23 (BB) ~~(x)~~ "State disbursement unit" or "SDU" means the
24 entity established in section 6 of the office of child support
25 act, 1971 PA 174, MCL 400.236.

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1 (CC) "STATE FRIEND OF THE COURT BUREAU" MEANS THAT BUREAU AS
2 CREATED IN THE STATE COURT ADMINISTRATIVE OFFICE UNDER SECTION 19
3 OF THE FRIEND OF THE COURT ACT, MCL 552.519.

4 (DD) ~~-(Y)-~~ "Support" means all of the following:

5 (i) The payment of money for a child or a spouse ordered by
6 the circuit court, whether the order is embodied in an interim,
7 temporary, permanent, or modified order or judgment. Support may
8 include payment of the expenses of medical, dental, and other
9 health care, child care expenses, and educational expenses.

10 (ii) The payment of money ordered by the circuit court under
11 the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the
12 necessary expenses incurred by or for the mother in connection
13 with her confinement, for other expenses in connection with the
14 pregnancy of the mother, or for the repayment of genetic testing
15 expenses.

16 (iii) A surcharge accumulated under section 3a.

17 (EE) ~~-(Z)-~~ "Support order" means an order entered by the
18 circuit court for the payment of support, whether or not a sum
19 certain.

20 (FF) "TITLE IV-D" MEANS PART D OF TITLE IV OF THE SOCIAL
21 SECURITY ACT, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 651 TO 657,
22 658a TO 660, AND 663 TO 669b.

23 (GG) "TITLE IV-D AGENCY" MEANS THE AGENCY IN THIS STATE PER-
24 FORMING THE FUNCTIONS UNDER TITLE IV-D AND INCLUDES A PERSON PER-
25 FORMING THOSE FUNCTIONS UNDER CONTRACT INCLUDING AN OFFICE OF THE
26 FRIEND OF THE COURT OR A PROSECUTING ATTORNEY.

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1 (HH) ~~(aa)~~ "Work activity" means any of the following:

2 (i) Unsubsidized employment.

3 (ii) Subsidized private sector employment.

4 (iii) Subsidized public sector employment.

5 (iv) Work experience, including work associated with the
6 refurbishing of publicly assisted housing, if sufficient private
7 sector employment is not available.

8 (v) On-the-job training.

9 (vi) Job search and job readiness assistance.

10 (vii) Community service programs.

11 (viii) Vocational educational training, not to exceed 12
12 months with respect to an individual.

13 (ix) Job skills training directly related to employment.

14 (x) Education directly related to employment, in the case of
15 an individual who has not received a high school diploma or a
16 certificate of high school equivalency.

17 (xi) Satisfactory attendance at secondary school or in a
18 course of study leading to a certificate of general equivalence,
19 in the case of an individual who has not completed secondary
20 school or received such a certificate.

21 (xii) The provisions of child care services to an individual
22 who is participating in a community service program.

23 Sec. 31. (1) If a person is ordered to pay support under a
24 support order and fails or refuses to obey and perform the order,
25 and if an order of income withholding is inapplicable or unsuc-
26 cessful, a recipient of support or the office of the friend of
27 the court may commence a civil contempt proceeding by filing in

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1 the circuit court a petition for an order to show cause why the
2 delinquent payer should not be held in contempt. If the payer
3 fails to appear in response to an order to show cause, the court
4 ~~may issue a bench warrant requiring that the payer be brought~~
5 ~~before the court without unnecessary delay to answer and plead to~~
6 ~~that neglect or refusal.~~ SHALL DO 1 OR MORE OF THE FOLLOWING:

7 (A) FIND THE PAYER IN CONTEMPT FOR FAILURE TO APPEAR.

8 (B) FIND THE PAYER IN CONTEMPT FOR THE REASONS STATED IN THE
9 MOTION FOR THE SHOW CAUSE HEARING.

10 (C) APPLY AN ENFORCEMENT REMEDY AUTHORIZED UNDER THIS ACT OR
11 THE FRIEND OF THE COURT ACT FOR THE NONPAYMENT OF SUPPORT.

12 (D) ISSUE A BENCH WARRANT FOR THE PAYER'S ARREST REQUIRING
13 THAT THE PAYER BE BROUGHT BEFORE THE COURT WITHOUT UNNECESSARY
14 DELAY FOR FURTHER PROCEEDINGS IN CONNECTION WITH THE SHOW CAUSE
15 OR CONTEMPT PROCEEDINGS.

16 (E) ADJOURN THE HEARING.

17 (F) DISMISS THE ORDER TO SHOW CAUSE IF THE COURT DETERMINES
18 THAT THE PAYER IS NOT IN CONTEMPT.

19 (2) In a bench warrant issued under this section, the court
20 SHALL DECREE THAT THE PAYER IS SUBJECT TO ARREST IF APPREHENDED
21 OR DETAINED ANYWHERE IN THIS STATE AND shall require that, upon
22 arrest, unless the payer deposits a CASH PERFORMANCE bond ~~or~~
23 ~~cash~~ in the manner required by section 32, the payer shall
24 remain in custody until the time of the hearing. ~~Except as oth-~~
25 ~~erwise provided in this section, the bond or cash~~ THE COURT
26 SHALL SPECIFY IN THE BENCH WARRANT THE CASH PERFORMANCE BOND
27 AMOUNT. IN THE ABSENCE OF SUBSTANTIAL EVIDENCE TO THE CONTRARY,

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1 THE COURT SHALL PRESUME THAT THE CASH PERFORMANCE BOND amount
2 shall be set at not less than \$500.00 or 25% of the arrearage,
3 whichever is greater. At its own discretion, the court may add
4 to the amount of the required deposit the amount of the costs the
5 court may require under subsection (3).

6 (3) If the court issues a bench warrant under this section,
7 except for good cause shown on the record, the court shall order
8 the payer to pay the costs related to the hearing, issuance of
9 the warrant, arrest, and further hearings. Those costs and costs
10 ordered for failure to appear under ~~sections~~ SECTION 32 ~~and~~
11 OR 44 shall be transmitted to the county treasurer for distribu-
12 tion as required in section 2530 of the revised judicature act of
13 1961, 1961 PA 236, MCL 600.2530.

14 Sec. 32. ~~If a payer arrested under a bench warrant issued~~
15 ~~under section 31 cannot be brought before the court within 24~~
16 ~~hours, the payer may recognize for his or her appearance by leav-~~
17 ~~ing with the sheriff or deputy sheriff in charge of the county~~
18 ~~jail a bond or cash in the amount stated on the bench warrant.~~

19 IF A BENCH WARRANT WAS ISSUED AND THE PAYER IS ARRESTED IN THE
20 COUNTY THAT ISSUED THE WARRANT OR ANOTHER COUNTY IN THIS STATE,
21 THE PAYER SHALL REMAIN IN CUSTODY UNTIL THERE IS A HEARING OR THE
22 PAYER POSTS AN ADEQUATE CASH PERFORMANCE BOND. IF THE PAYER
23 CANNOT POST THE CASH PERFORMANCE BOND IN THE AMOUNT STATED IN THE
24 BENCH WARRANT, THE PAYER IS ENTITLED TO A HEARING WITHIN 48
25 HOURS, EXCLUDING WEEKENDS AND HOLIDAYS. THE ISSUES TO BE CONSID-
26 ERED AT A HEARING REQUIRED UNDER THIS SUBSECTION ARE LIMITED TO
27 THE PAYER'S ANSWER TO THE ORDER TO SHOW CAUSE AND, IF THE PAYER

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1 WAS FOUND IN CONTEMPT, TO FURTHER PROCEEDINGS RELATED TO THE
2 PAYER'S CONTEMPT. IF THE HEARING IS NOT HELD AS PROVIDED IN THIS
3 SUBSECTION, THE COURT SHALL REVIEW, BASED ON CRITERIA PRESCRIBED
4 IN THE MICHIGAN COURT RULES, THE AMOUNT OF THE CASH PERFORMANCE
5 BOND TO DETERMINE AN AMOUNT THAT WILL ENSURE THE PAYER'S APPEAR-
6 ANCE AND SHALL SET A DATE FOR A HEARING TO BE HELD UNDER SUBSEC-
7 TION (4) WITHIN THE TIME LIMIT PRESCRIBED IN THE MICHIGAN COURT
8 RULES.

9 (2) The officer receiving a CASH PERFORMANCE bond ~~or cash~~
10 under subsection (1) shall give to the arrested payer a receipt
11 for the CASH PERFORMANCE bond ~~or cash~~ on a form SUBSTANTIALLY
12 as follows:

13 "Date _____
14 ~~Received from _____ a bond or cash in the amount~~
15 ~~of _____ dollars to assure the appearance of~~
16 ~~_____ before _____ circuit court judge~~
17 ~~in the county of _____, at _____ on the _____~~
18 ~~day of _____, 19__, to respond to an order to show~~
19 ~~cause why he or she should not be held in contempt for failure or~~
20 ~~refusal to obey or perform a support order.~~

21 RECEIVED FROM _____ (REFERRED TO IN THIS RECEIPT
22 AS "THE PAYER") TO ASSURE THE PERFORMANCE OF THE PAYER'S SUPPORT
23 OBLIGATION. THE PAYER SHALL APPEAR FOR HEARING AT A DATE NOTICED
24 TO THE PAYER BY THE COURT AT THE FOLLOWING ADDRESS:

25 _____

26 (ADDRESS FURNISHED BY THE PAYER FOR RECEIPT OF NOTICE)

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1 THE HEARING IS FOR THE PAYER TO ANSWER THE SHOW CAUSE ORDER AND,
2 IF THE PAYER WAS FOUND IN CONTEMPT, TO FURTHER PROCEEDINGS
3 RELATED TO THE PAYER'S CONTEMPT.

4 If the payer fails to appear at the time and place indicated
5 ~~above~~ IN THE COURT'S NOTICE, fails to submit to the jurisdic-
6 tion of the court, and fails to abide by an order of the court,
7 the CASH PERFORMANCE bond ~~or cash deposited~~ shall be transmit-
8 ted to the friend of the court or to the state disbursement unit
9 for payment of the arrearage to the recipient of support and of
10 costs to the court. IF THE PAYER APPEARS AT THE TIME AND PLACE
11 INDICATED ABOVE AND THE COURT DETERMINES THAT THE PAYER OWES AN
12 ARREARAGE UNDER THE SUPPORT ORDER THAT IS THE BASIS OF THE ORDER
13 TO SHOW CAUSE AND OWES COSTS TO THE COURT, THE CASH PERFORMANCE
14 BOND DEPOSITED SHALL BE TRANSMITTED TO THE OFFICE OF THE FRIEND
15 OF THE COURT OR TO THE STATE DISBURSEMENT UNIT FOR PAYMENT OF THE
16 ARREARAGE TO THE RECIPIENT OF SUPPORT AND OF COSTS TO THE COURT.
17 By depositing the CASH PERFORMANCE bond ~~or cash~~ with the offi-
18 cer and accepting this receipt, the recipient of this receipt
19 waives a claim to the money under the CASH PERFORMANCE bond ~~or~~
20 ~~to the cash~~ following its transmittal to the friend of the court
21 or to the SDU.

22

23 Officer: _____ Dept.: _____".

24 (3) The officer receiving ~~the bond or cash~~ A CASH PER-
25 FORMANCE BOND shall in turn deposit the bond ~~or cash~~ received
26 under this section with the clerk of the court that issued the
27 bench warrant. IF THE PAYER DEPOSITS A CASH PERFORMANCE BOND

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1 UNDER THIS SECTION, THE DATE FOR A HEARING TO BE HELD UNDER
2 SUBSECTION (4) SHALL BE SET WITHIN THE TIME LIMIT PRESCRIBED IN
3 THE MICHIGAN COURT RULES.

4 (4) THE ISSUES TO BE CONSIDERED AT A HEARING REQUIRED UNDER
5 THIS SUBSECTION ARE LIMITED TO THE PAYER'S ANSWER TO THE ORDER TO
6 SHOW CAUSE AND, IF THE PAYER WAS FOUND IN CONTEMPT, TO FURTHER
7 PROCEEDINGS RELATED TO THE PAYER'S CONTEMPT. On the basis of the
8 hearing, ~~on the order to show cause,~~ the court by order shall
9 determine how much of the CASH PERFORMANCE bond ~~or cash~~ depos-
10 ited under this section is to be transmitted to the friend of the
11 court or to the SDU for payment to 1 or more recipients of sup-
12 port and ~~shall return the balance, if any, to the payer~~ TO THE
13 COUNTY TREASURER FOR DISTRIBUTION AS PROVIDED IN SECTION 31. THE
14 BALANCE, IF ANY, SHALL BE RETURNED TO THE PERSON WHO POSTED THE
15 CASH PERFORMANCE BOND ON THE PAYER'S BEHALF.

16 (5) If the payer fails to appear as required, the court
17 shall ORDER THE CASH PERFORMANCE BOND FORFEITED AND transmit the
18 bond ~~or cash~~ to the friend of the court or to the SDU for pay-
19 ment to 1 or more recipients of support and to the county trea-
20 surer for distribution as provided in section 31. In addition,
21 the court may again issue a bench warrant for the further appear-
22 ance of the payer AS PROVIDED IN SECTION 31.

23 (6) ~~If the payer does not post the bond or cash under this~~
24 ~~section and remains in custody, the court shall hold the show~~
25 ~~cause hearing within 48 hours after the arrest.~~ THE COURT MAY
26 SET ASIDE A FINDING OF CONTEMPT UNDER SECTION 31 IF THE COURT
27 FINDS, BASED ON THE HEARING UNDER THIS SECTION, THAT THE PAYER IS

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1 IN COMPLIANCE WITH THE COURT'S ORDER OR FOR OTHER GOOD CAUSE
2 SHOWN.

3 Sec. 33. (1) The court may find a payer in contempt if the
4 court finds that the payer is in arrears and if the court is sat-
5 isfied that the payer has the capacity to pay out of currently
6 available resources all or some portion of the amount due under
7 the support order. In the absence of proofs to the contrary
8 introduced by the payer, the court shall presume that the payer
9 has currently available resources equal to 4 weeks of payments
10 under the support order. The court shall not find that the payer
11 has currently available resources of more than 4 weeks of pay-
12 ments without proof of those resources by the office of the
13 friend of the court or the recipient of support. Upon finding a
14 payer in contempt of court under this section, the court may
15 immediately enter an order doing 1 OR MORE of the following:

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

17 (b) Committing the payer to the county jail with the privi-
18 lege of leaving the jail during the hours the court determines,
19 and under the supervision the court considers, necessary for the
20 purpose of allowing the payer to go to and return from his or her
21 place of employment.

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

25 (d) If the payer holds an occupational license, driver's
26 license, or recreational or sporting license, conditioning a
27 suspension of the payer's license, or any combination of the

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1 licenses, upon noncompliance with an order for payment of the
2 arrearage in 1 or more scheduled installments of a sum certain.
3 A court shall not order the sanction authorized by this subdivi-
4 sion unless the court finds that the payer has accrued an arrear-
5 age of support payments in an amount greater than the amount of
6 periodic support payments payable for ~~6~~ 2 months under the
7 payer's support order.

8 (e) Ordering the payer to participate in a work activity.

9 ~~The court shall not enter an order using this subdivision unless~~
10 ~~the payer's arrearage is under a child support order and a child~~
11 ~~who is the subject of that order is receiving financial assist-~~
12 ~~ance under title IV of the social security act, chapter 531, 49~~
13 ~~Stat. 620, 42 U.S.C. 601 to 603, 604 to 608, 609 to 619, 620 to~~
14 ~~629e, 651 to 660, 663 to 669b, 670 to 673, 673b, 674 to 679,~~
15 ~~679b, and 681 to 687.~~ This subdivision does not alter the
16 court's authority to include provisions in an order issued under
17 this section concerning a payer's employment or his or her seek-
18 ing of employment as that authority exists on ~~the effective date~~
19 ~~of the amendatory act that added this subdivision~~ AUGUST 10,
20 1998.

21 (2) If the court enters an order under subsection (1)(d) and
22 the payer fails to comply with the arrearage payment schedule,
23 after notice and opportunity for a hearing, the court shall order
24 suspension of the payer's license or licenses with respect to
25 which the order under subsection (1)(d) was entered and shall
26 proceed under section 30.

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1 Sec. 35. (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
3 satisfied that by the exercise of diligence the payer could have
4 the capacity to pay all or some portion of the amount due under
5 the support order and that the payer fails or refuses to do so.

6 (2) Upon finding a payer in contempt of court under this
7 section, the court may immediately enter an order doing ~~either~~
8 1 OR MORE of the following:

9 (a) Committing the payer to the county jail with the privi-
10 lege of leaving the jail during the hours the court determines,
11 and under the supervision the court considers, necessary for the
12 purpose of allowing the payer to go to and return from his or her
13 place of employment or, if the person wishes to seek employment,
14 to seek employment.

15 (b) If the payer holds an occupational license, driver's
16 license, or recreational or sporting license, conditioning a sus-
17 pension of the payer's license, or any combination of the
18 licenses, upon noncompliance with an order for payment of the
19 arrearage in 1 or more scheduled installments of a sum certain.
20 A court shall not order the sanction authorized by this subdivi-
21 sion unless the court finds that the payer has accrued an arrear-
22 age of support payments in an amount greater than the amount of
23 periodic support payments payable for ~~6~~ 2 months under the
24 payer's support order.

25 (c) Ordering the payer to participate in a work activity.
26 ~~The court shall not enter an order using this subdivision unless~~
27 ~~the payer's arrearage is under a child support order and a child~~

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1 ~~who is the subject of that order is receiving financial~~
2 ~~assistance under title IV of the social security act,~~
3 ~~chapter 531, 49 Stat. 620, 42 U.S.C. 601 to 603, 604 to 608, 609~~
4 ~~to 619, 620 to 629e, 651 to 660, 663 to 669b, 670 to 673, 673b,~~
5 ~~674 to 679, 679b, and 681 to 687.~~ This subdivision does not
6 alter the court's authority to include provisions in an order
7 issued under this section concerning a payer's employment or his
8 or her seeking of employment as that authority exists on ~~the~~
9 ~~effective date of the amendatory act that added this subdivision~~
10 AUGUST 10, 1998.

11 (3) Notwithstanding the length of commitment imposed under
12 this section, ~~an unemployed payer~~ THE COURT MAY RELEASE A PAYER
13 WHO IS UNEMPLOYED WHEN committed to a county jail under this sec-
14 tion AND who finds employment ~~shall be released from jail~~ if
15 either of the following applies:

16 (a) The payer is self-employed, ~~and has completed~~
17 COMPLETES 2 consecutive weeks at his or her employment, AND MAKES
18 A SUPPORT PAYMENT AS REQUIRED BY THE COURT.

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

22 (4) If the court enters an order under subsection (2)(b) and
23 the payer fails to comply with the arrearage payment schedule,
24 after notice and an opportunity for a hearing, the court shall
25 order suspension of the payer's license or licenses with respect
26 to which the order under subsection (2)(b) was entered and shall
27 proceed under section 30.

HB6006, As Passed House, May 28, 2002

House Bill No. 6006

19

1 Enacting section 1. This amendatory act takes effect June
2 1, 2003.