

**SUBSTITUTE FOR
HOUSE BILL NO. 5372**

A bill to amend 1982 PA 295, entitled
"Support and parenting time enforcement act,"
by amending section 31 (MCL 552.631), as amended by 2002 PA 567.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 31. (1) If a person is ordered to pay support under a
2 support order and fails or refuses to obey and perform the order,
3 and if an order of income withholding is inapplicable or
4 unsuccessful, a recipient of support or the office of the friend
5 of the court may commence a civil contempt proceeding by filing
6 in the circuit court a petition for an order to show cause why
7 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 shall do 1 or more of the following:
- 10 (a) Find the payer in contempt for failure to appear.
- 11 (b) Find the payer in contempt for the reasons stated in the

1 motion for the show cause hearing.

2 (c) Apply an enforcement remedy authorized under this act or
3 the friend of the court act for the nonpayment of support.

4 (d) Issue a bench warrant for the payer's arrest requiring
5 that the payer be brought before the court without unnecessary
6 delay for further proceedings in connection with the show cause
7 or contempt proceedings.

8 (e) Adjourn the hearing.

9 (f) Dismiss the order to show cause if the court determines
10 that the payer is not in contempt.

11 (2) In a bench warrant issued under this section, the court
12 shall decree that the payer is subject to arrest if apprehended
13 or detained anywhere in this state and shall require that, upon
14 arrest, unless the payer deposits a cash performance bond in the
15 manner required by section 32, the payer shall remain in custody
16 until the time of the hearing. The court shall specify in the
17 bench warrant the cash performance bond amount. The court shall
18 set the cash performance bond at not less than \$500.00 or 25% of
19 the arrearage, whichever is greater. At its own discretion, the
20 court may set the cash performance bond at an amount up to 100%
21 of the arrearage and add to the amount of the required deposit
22 the amount of the costs the court may require under subsection
23 (3). **If a payer is arrested on a felony warrant issued for a**
24 **violation of section 165 of the Michigan penal code, 1931 PA 338,**
25 **MCL 750.165, unless the payer deposits a cash performance bond in**
26 **the manner required by section 32, the court shall require that,**
27 **upon arrest, the payer remain in custody until the time of the**

1 preliminary examination. Upon notification that a payer who has
2 an outstanding bench warrant under this section has been arrested
3 or arraigned on a felony warrant for a violation of section 165
4 of the Michigan penal code, 1931 PA 338, MCL 750.165, the court
5 shall order that the bench warrant be recalled.

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 section 32 or 44 shall be
11 transmitted to the county treasurer for distribution as required
12 in section 2530 of the revised judicature act of 1961, 1961
13 PA 236, MCL 600.2530.

14 (4) If a person who is ordered to pay support under a support
15 order is imprisoned and without resources to pay support, for a
16 period of 180 days after the person is released from
17 imprisonment, no additional surcharge on the support shall
18 accrue, no bench warrant for failure to pay support or show cause
19 action for failure to pay support shall be authorized, and no
20 prosecution under section 161, 165, or 167 of the Michigan penal
21 code, 1931 PA 328, MCL 750.161, 750.165, and 750.167, shall be
22 initiated.

23 Enacting section 1. This amendatory act does not take
24 effect unless House Bill No. 5373 of the 92nd Legislature is
25 enacted into law.