

HOUSE BILL No. 5472

April 23, 2014, Introduced by Rep. Rendon and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1982 PA 295, entitled "Support and parenting time enforcement act," by amending sections 2 and 35 (MCL 552.602 and 552.635), as amended by 2009 PA 193, and by adding section 36.

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.
- 8 (vi) A savings account.

- 1 (vii) A time savings account.
2 (viii) A mutual fund account.
3 (ix) A securities brokerage account.
4 (x) A money market account.
5 (xi) A retail investment account.
6 (b) "Account" does not mean any of the following:
7 (i) A trust.
8 (ii) An annuity.
9 (iii) A qualified individual retirement account.
10 (iv) An account covered by the employee retirement income
11 security act of 1974, Public Law 93-406.
12 (v) A pension or retirement plan.
13 (vi) An insurance policy.

14 (C) **"ALTERNATIVE CONTEMPT TRACK" MEANS THE ALTERNATIVE**
15 **CONTEMPT TRACK DOCKET ESTABLISHED UNDER SECTION 36.**

16 (D) ~~(e)~~—"Cash" means money or the equivalent of money, such as
17 a money order, cashier's check, or negotiable check or a payment by
18 debit or credit card, which equivalent is accepted as cash by the
19 agency accepting the payment.

20 (E) ~~(d)~~—"Custody or parenting time order violation" means an
21 individual's act or failure to act that interferes with a parent's
22 right to interact with his or her child in the time, place, and
23 manner established in the order that governs custody or parenting
24 time between the parent and the child and to which the individual
25 accused of interfering is subject.

26 (F) ~~(e)~~—"Department" means the department of human services.

27 (G) ~~(f)~~—"Domestic relations matter" means a circuit court

1 proceeding as to child custody, parenting time, child support, or
2 spousal support, that arises out of litigation under a statute of
3 this state, including, but not limited to, the following:

4 (i) 1846 RS 84, MCL 552.1 to 552.45.

5 (ii) The family support act, 1966 PA 138, MCL 552.451 to
6 552.459.

7 (iii) The child custody act of 1970, 1970 PA 91, MCL 722.21 to
8 722.31.

9 (iv) 1968 PA 293, MCL 722.1 to 722.6.

10 (v) The paternity act, 1956 PA 205, MCL 722.711 to 722.730.

11 (vi) The revised uniform reciprocal enforcement of support act,
12 1952 PA 8, MCL 780.151 to 780.183.

13 (vii) The uniform interstate family support act, 1996 PA 310,
14 MCL 552.1101 to 552.1901.

15 (H) ~~(g)~~—"Driver's license" means license as that term is
16 defined in section 25 of the Michigan vehicle code, 1949 PA 300,
17 MCL 257.25.

18 (I) ~~(h)~~—"Employer" means an individual, sole proprietorship,
19 partnership, association, or private or public corporation, the
20 United States or a federal agency, this state or a political
21 subdivision of this state, another state or a political subdivision
22 of another state, or another legal entity that hires and pays an
23 individual for his or her services.

24 (J) ~~(i)~~—"Financial asset" means a deposit, account, money
25 market fund, stock, bond, or similar instrument.

26 (K) ~~(j)~~—"Financial institution" means any of the following:

27 (i) A state or national bank.

1 (ii) A state or federally chartered savings and loan
2 association.

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

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

5 (v) An insurance company.

6 (vi) An entity that offers any of the following to a resident
7 of this state:

8 (A) A mutual fund account.

9 (B) A securities brokerage account.

10 (C) A money market account.

11 (D) A retail investment account.

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

14 (viii) An entity that is a member of the national association of
15 securities dealers and that collects funds from the public.

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

17 (I) ~~(k)~~—"Friend of the court act" means the friend of the court
18 act, 1982 PA 294, MCL 552.501 to 552.535.

19 (M) ~~(l)~~—"Friend of the court case" means that term as defined
20 in section 2 of the friend of the court act, MCL 552.502.

21 (N) ~~(m)~~—"Income" means any of the following:

22 (i) Commissions, earnings, salaries, wages, and other income
23 due or to be due in the future to an individual from his or her
24 employer or a successor employer.

25 (ii) A payment due or to be due in the future to an individual
26 from a profit-sharing plan, a pension plan, an insurance contract,
27 an annuity, social security, unemployment compensation,

1 supplemental unemployment benefits, or worker's compensation.

2 (iii) An amount of money that is due to an individual as a debt
3 of another individual, partnership, association, or private or
4 public corporation, the United States or a federal agency, this
5 state or a political subdivision of this state, another state or a
6 political subdivision of another state, or another legal entity
7 that is indebted to the individual.

8 (O) ~~(n)~~—"Insurer" means an insurer, health maintenance
9 organization, health care corporation, or other group, plan, or
10 entity that provides health care coverage in accordance with any of
11 the following acts:

12 (i) The public health code, 1978 PA 368, MCL 333.1101 to
13 333.25211.

14 (ii) The insurance code of 1956, 1956 PA 218, MCL 500.100 to
15 500.8302.

16 (iii) The nonprofit health care corporation reform act, 1980 PA
17 350, MCL 550.1101 to 550.1704.

18 (P) ~~(e)~~—"Medical assistance" means medical assistance as
19 established under title XIX of the social security act, 42 USC 1396
20 to ~~1396v-1396w-5~~.

21 (Q) ~~(p)~~—"Most recent semiannual obligation" means the total
22 amount of current child support owed by a parent during the
23 preceding January 1 to June 30 or July 1 to December 31.

24 (R) ~~(q)~~—"Occupational license" means a certificate,
25 registration, or license issued by a state department, bureau, or
26 agency that has regulatory authority over an individual that allows
27 an individual to legally engage in a regulated occupation or that

1 allows the individual to use a specific title in the practice of an
2 occupation, profession, or vocation.

3 (S) ~~(r)~~—"Office of child support" means the office of child
4 support established in section 2 of the office of child support
5 act, 1971 PA 174, MCL 400.232.

6 (T) ~~(s)~~—"Office of the friend of the court" means an agency
7 created in section 3 of the friend of the court act, MCL 552.503.

8 (U) ~~(t)~~—"Order of income withholding" means an order entered
9 by the circuit court providing for the withholding of a payer's
10 income to enforce a support order under this act.

11 (V) ~~(u)~~—"Payer" means an individual who is ordered by the
12 circuit court to pay support.

13 (W) ~~(v)~~—"Person" means an individual, partnership,
14 corporation, association, governmental entity, or other legal
15 entity.

16 (X) ~~(w)~~—"Plan administrator" means that term as used in
17 relation to a group health plan under section 609 of title I of the
18 employee retirement income security act of 1974, 29 USC 1169, if
19 the health care coverage plan of the individual who is responsible
20 for providing a child with health care coverage is subject to that
21 act.

22 (Y) ~~(x)~~—"Political subdivision" means a county, city, village,
23 township, educational institution, school district, or special
24 district or authority of this state or of a local unit of
25 government.

26 (Z) ~~(y)~~—"Recipient of support" means the following:

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

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

4 (iii) The department, if support has been assigned to that
5 department.

6 (iv) The county, if the minor child is in county-funded foster
7 care.

8 **(AA)** ~~(z)~~ "Recreational or sporting license" means a hunting,
9 fishing, or fur harvester's license issued under the natural
10 resources and environmental protection act, 1994 PA 451, MCL
11 324.101 to 324.90106, but does not include a commercial fishing
12 license or permit issued under part 473 of the natural resources
13 and environmental protection act, 1994 PA 451, MCL 324.47301 to
14 324.47362.

15 **(BB)** ~~(aa)~~ "Referee" means a person who is designated as a
16 referee under the friend of the court act.

17 **(CC)** ~~(bb)~~ "Source of income" means an employer or successor
18 employer, a labor organization, or another individual or entity
19 that owes or will owe income to the payer.

20 **(DD)** ~~(cc)~~ "State disbursement unit" or "SDU" means the entity
21 established in section 6 of the office of child support act, 1971
22 PA 174, MCL 400.236.

23 **(EE)** ~~(dd)~~ "State friend of the court bureau" means that bureau
24 as created in the state court administrative office under section
25 19 of the friend of the court act, MCL 552.519.

26 **(FF)** ~~(ee)~~ "Support" means all of the following:

27 (i) The payment of money for a child or a spouse ordered by the

1 circuit court, whether the order is embodied in an interim,
2 temporary, permanent, or modified order or judgment. Support may
3 include payment of the expenses of medical, dental, and other
4 health care, child care expenses, and educational expenses.

5 (ii) The payment of money ordered by the circuit court under
6 the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the
7 necessary expenses connected to the mother's pregnancy or the birth
8 of the child, or for the repayment of genetic testing expenses.

9 (iii) A surcharge under section 3a.

10 (GG) ~~(ff)~~—"Support order" means an order entered by the
11 circuit court for the payment of support, whether or not a sum
12 certain.

13 (HH) ~~(gg)~~—"Title IV-D" means part D of title IV of the social
14 security act, 42 USC 651 to 669b.

15 (II) ~~(hh)~~—"Title IV-D agency" means the agency in this state
16 performing the functions under title IV-D and includes a person
17 performing those functions under contract, including an office of
18 the friend of the court or a prosecuting attorney.

19 (JJ) ~~(ii)~~—"Work activity" means any of the following:

20 (i) Unsubsidized employment.

21 (ii) Subsidized private sector employment.

22 (iii) Subsidized public sector employment.

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

26 (v) On-the-job training.

27 (vi) Referral to and participation in the work first program

1 prescribed in the social welfare act, 1939 PA 280, MCL 400.1 to
2 400.119b, or other job search and job readiness assistance.

3 (vii) A community service program.

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

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

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

10 (xi) Satisfactory attendance at secondary school or in a course
11 of study leading to a certificate of general equivalence, in the
12 case of an individual who has not completed secondary school or
13 received such a certificate.

14 (xii) The provision of child care services to an individual who
15 is participating in a community service program.

16 Sec. 35. (1) The court may find a payer in contempt if the
17 court finds that the payer is in arrears and 1 of the following
18 applies:

19 (a) The court is satisfied that by the exercise of diligence
20 the payer could have the capacity to pay all or some portion of the
21 amount due under the support order and that the payer fails or
22 refuses to do so.

23 (b) The payer has failed to obtain a source of income and has
24 failed to participate in a work activity after referral by the
25 friend of the court.

26 (2) Upon finding a payer in contempt of court under this
27 section, the court shall, absent good cause to the contrary,

1 immediately order the payer to participate in a work activity and
2 may also do 1 or more of the following:

3 (a) Commit the payer to the county jail or an alternative to
4 jail with the privilege of leaving the jail or other place of
5 detention during the hours the court determines, and under the
6 supervision the court considers, necessary for the purpose of
7 allowing the payer to participate in a work activity.

8 (b) If the payer holds an occupational license, driver's
9 license, or recreational or sporting license, condition a
10 suspension of the payer's license, or a combination of the
11 licenses, upon noncompliance with an order for payment of the
12 arrearage in 1 or more scheduled installments of a sum certain. A
13 court shall not order the sanction authorized by this subdivision
14 unless the court finds that the payer has accrued an arrearage of
15 support payments in an amount greater than the amount of periodic
16 support payments payable for 2 months under the payer's support
17 order.

18 (c) If available within the court's jurisdiction, order the
19 payer to participate in a community corrections program established
20 as provided in the community corrections act, 1988 PA 511, MCL
21 791.401 to 791.414.

22 (d) Except as provided by federal law and regulations, order
23 the parent to pay a fine of not more than \$100.00. A fine ordered
24 under this subdivision shall be deposited in the friend of the
25 court fund created in section 2530 of the revised judicature act of
26 1961, 1961 PA 236, MCL 600.2530.

27 (e) Place the payer under the supervision of the office for a

1 term fixed by the court with reasonable conditions, including 1 or
2 more of the following:

3 (i) Participating in a parenting program.

4 (ii) Participating in drug or alcohol counseling.

5 (iii) Participating in a work program.

6 (iv) Seeking employment.

7 (v) Participating in other counseling.

8 (vi) Continuing compliance with a current support or parenting
9 time order.

10 (vii) Entering into and compliance with an arrearage payment
11 plan.

12 **(F) IF THE PAYER MEETS THE CRITERIA LISTED IN SECTION 36(2),**
13 **PLACE THE PAYER ON THE ALTERNATIVE CONTEMPT TRACK AND PROCEED AS**
14 **PROVIDED IN SECTION 36.**

15 (3) Notwithstanding the length of commitment imposed under
16 this section, the court may release a payer who is unemployed if
17 committed to a county jail under this section and who finds
18 employment if either of the following applies:

19 (a) The payer is self-employed, completes 2 consecutive weeks
20 at his or her employment, and makes a support payment as required
21 by the court.

22 (b) The payer is employed and completes 2 consecutive weeks at
23 his or her employment and an order of income withholding is
24 effective.

25 (4) If the court enters an order under subsection (2)(b) and
26 the payer fails to comply with the arrearage payment schedule,
27 after notice and an opportunity for a hearing, the court shall

1 order suspension of the payer's license or licenses with respect to
2 which the order under subsection (2)(b) was entered and shall
3 proceed under section 30.

4 SEC. 36. (1) A PAYER WHO IS SUBJECT TO A CONTEMPT PROCEEDING
5 UNDER SECTION 35 AND WHO MEETS THE CRITERIA IN SUBSECTION (2), MAY,
6 WITH THE CONSENT OF THE COURT, AGREE TO HAVE HIS OR HER CASE PLACED
7 ON AN ALTERNATIVE CONTEMPT TRACK DOCKET.

8 (2) THE ALTERNATIVE CONTEMPT TRACK IS AVAILABLE FOR A PAYER
9 WHO IS DETERMINED BY THE COURT TO HAVE DIFFICULTY MAKING SUPPORT
10 PAYMENTS DUE TO ANY OF THE FOLLOWING:

11 (A) A DOCUMENTED MEDICAL CONDITION.

12 (B) A DOCUMENTED PSYCHOLOGICAL DISORDER.

13 (C) SUBSTANCE USE DISORDER.

14 (D) ILLITERACY.

15 (E) HOMELESSNESS.

16 (F) A TEMPORARY CURABLE CONDITION THAT THE PAYER HAS
17 DIFFICULTY CONTROLLING WITHOUT ASSISTANCE.

18 (G) CHRONIC UNEMPLOYMENT LASTING LONGER THAN 52 WEEKS.

19 (3) THE ALTERNATIVE CONTEMPT TRACK SHALL PROVIDE FOR ALL OF
20 THE FOLLOWING:

21 (A) A PAYER WHO IS IN THE ALTERNATIVE CONTEMPT TRACK IS
22 SUBJECT TO PROBATION FOR A PERIOD OF UP TO 1 YEAR.

23 (B) THE COURT SHALL APPROVE A PLAN TO ADDRESS THE CONDITIONS
24 IN SUBSECTION (2).

25 (C) THE COURT MAY DIRECT THE SHERIFF TO TAKE INTO CUSTODY A
26 PAYER WHO FAILS TO COMPLY WITH THE PLAN DESCRIBED IN SUBDIVISION

27 (B) UNDER THE CONDITIONS AND FOR THE TIME THAT THE COURT DIRECTS TO

1 BRING THE PAYER INTO COMPLIANCE WITH THE PLAN DESCRIBED UNDER
2 SUBDIVISION (B). A PAYER SHALL NOT BE ORDERED TO REMAIN IN THE
3 SHERIFF'S CUSTODY LONGER THAN 45 DAYS FOR ANY SINGLE PLAN
4 VIOLATION.

5 (D) A PAYER WHO WILLFULLY FAILS TO COMPLY WITH THE TERMS OF
6 THE PLAN DESCRIBED IN SUBDIVISION (B) IS GUILTY OF A CIVIL
7 INFRACTION, AND THE COURT MAY PUNISH THAT PAYER BY ORDERING HIS OR
8 HER COMMITMENT TO JAIL FOR A PERIOD NOT TO EXCEED 10 DAYS.

9 (E) THE PAYER IS REQUIRED TO APPEAR FOR REVIEW HEARINGS AS
10 SCHEDULED BY THE COURT AND IS SUBJECT TO ARREST ACCORDING TO
11 SECTION 31.

12 (F) THE PLAN DESCRIBED IN SUBDIVISION (B) MAY PROVIDE NOTICE
13 OF MODIFICATION TO THE PAYER AND RECIPIENT OF SUPPORT. THE COURT
14 MAY ENTER A TEMPORARY SUPPORT ORDER OR STAY THE CURRENT ORDER BASED
15 ON THE PERSON'S ABILITY DURING THE PERIOD A PAYER IS UNDER AN
16 ALTERNATIVE CONTEMPT TRACK PLAN. SUBJECT TO SECTION 3(2), THE COURT
17 SHALL ENTER A FINAL SUPPORT ORDER UPON COMPLETION OR TERMINATION OF
18 THE PLAN DESCRIBED IN SUBDIVISION (B).

19 (G) THE COURT MAY DISCHARGE ARREARS OWED TO THE STATE WITH THE
20 STATE'S APPROVAL AND MAY ALSO DISCHARGE ARREARS OWED TO A PAYEE
21 WITH THE PAYEE'S CONSENT UPON SUCCESSFUL COMPLETION OF THE
22 ALTERNATIVE CONTEMPT TRACK.

23 (4) EACH COURT THAT USES AN ALTERNATIVE CONTEMPT TRACK MUST
24 SUBMIT A PLAN FOR THE ALTERNATIVE CONTEMPT TRACK AND OBTAIN
25 APPROVAL OF THE PLAN BY THE STATE COURT ADMINISTRATIVE OFFICE UNDER
26 THE SUPERVISION OF THE SUPREME COURT.

27 Enacting section 1. This amendatory act takes effect 90 days

1 after the date it is enacted into law.