

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)
Act 295 of 1982

552.632 Payer arrested under bench warrant; cash performance bond; hearing; form of bond receipt; failure to appear; transmission and deposit of bond; setting aside contempt finding; voluntary appearance by payer; receipt.

Sec. 32. (1) If a bench warrant was issued and the payer is arrested in the county that issued the warrant or another county in this state, the payer shall remain in custody until there is a hearing or the payer posts an adequate cash performance bond. If the payer cannot post the cash performance bond in the amount stated in the bench warrant, the payer is entitled to a hearing within 48 hours, excluding weekends and holidays. The issues to be considered at a hearing required under this subsection are limited to the payer's answer to the contempt proceeding and, if the payer was found in contempt, to further proceedings related to the payer's contempt. If the hearing is not held as provided in this subsection, the court shall review, based on criteria prescribed in the Michigan court rules, the amount of the cash performance bond to determine an amount that will ensure the payer's appearance and shall set a date for a hearing to be held under subsection (4) within the time limit prescribed in the Michigan court rules.

(2) The officer receiving a cash performance bond under subsection (1) shall give to the arrested payer a receipt for the cash performance bond on a form substantially as follows:

"Date _____

Received from _____ (referred to in this receipt as "the payer") to assure the performance of the payer's support obligation. The payer shall appear for hearing at a date noticed to the payer by the court at the following address:

(address furnished by the payer for receipt of notice)

The hearing is for the payer to answer to the contempt proceeding and, if the payer was found in contempt, to further proceedings related to the payer's contempt.

If the payer fails to appear at the time and place indicated in the court's notice, fails to submit to the jurisdiction of the court, and fails to abide by an order of the court, the cash performance bond shall be transmitted to the friend of the court or to the state disbursement unit for payment of the arrearage to the recipient of support and of costs to the court. If the payer appears at the time and place indicated above and the court determines that the payer owes an arrearage under the support order that is the basis of the contempt proceeding or owes costs to the court, the cash performance bond deposited shall be transmitted to the office of the friend of the court or to the state disbursement unit for payment of the arrearage to the recipient of support and of costs to the court. By depositing the cash performance bond with the officer and accepting this receipt, the recipient of this receipt waives a claim to the money under the cash performance bond following its transmittal to the friend of the court or to the SDU.

Officer: _____ Dept.: _____".

(3) The officer receiving a cash performance bond shall in turn deposit the bond received under this section with the clerk of the court that issued the bench warrant. If the payer deposits a cash performance bond under this section, the date for a hearing to be held under subsection (4) shall be set within the time limit prescribed in the Michigan court rules.

(4) At a hearing held after a payer deposits a cash performance bond, the issues to be considered are limited to the payer's answer to the contempt proceeding and, if the payer was found in contempt, to further proceedings related to the payer's contempt. On the basis of the hearing, the court by order shall determine how much of the cash performance bond deposited under this section is to be transmitted to the friend of the court or to the SDU for payment to 1 or more recipients of support and to the county treasurer for distribution as provided in section 31. The balance, if any, shall be returned to the person who posted the cash performance bond on the payer's behalf.

(5) If the payer fails to appear as required, the court shall order the cash performance bond forfeited and transmit the bond to the friend of the court or to the SDU for payment to 1 or more recipients of support and to the county treasurer for distribution as provided in section 31. In addition, the court may again issue a bench warrant for the further appearance of the payer as provided in section 31.

(6) The court may set aside a finding of contempt under section 31 if the court finds, based on the hearing under this section, that the payer is in compliance with the court's order or for other good cause shown.

(7) Notwithstanding any other provision of this section, a payer for whom a bench warrant has been issued may voluntarily appear at the office of the friend of the court to answer the bench warrant. The payer shall do either of the following:

(a) Post the bond set by the court in the bench warrant.

(b) Be taken promptly before the court for further proceedings.

(8) If a bond is posted under subsection (7)(a), the friend of the court or the clerk of the court shall give a receipt to the payer that substantially conforms to the requirements of subsection (2). The receipt shall direct the payer to appear before the court at a specific time and date. The friend of the court or the clerk of the court shall notify a local law enforcement agency to remove the bench warrant from the law enforcement information network as provided by the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 1983, Act 108, Imd. Eff. July 1, 1983;—Am. 1996, Act 301, Eff. Jan. 1, 1997;—Am. 1999, Act 160, Imd. Eff. Nov. 3, 1999;—Am. 2000, Act 442, Eff. Apr. 1, 2001;—Am. 2002, Act 567, Eff. June 1, 2003;—Am. 2014, Act 378, Eff. Mar. 17, 2015.