

Act No. 301
Public Acts of 1996
Approved by the Governor
June 20, 1996
Filed with the Secretary of State
June 20, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

**Introduced by Senators Cisky, Geake, Bennett, Gougeon, Hoffman, Shugars, Byrum, Dunaskiss, Stille,
McManus and Peters**

ENROLLED SENATE BILL No. 593

AN ACT to amend sections 31, 32, and 44 of Act No. 295 of the Public Acts of 1982, entitled as amended "An act to provide for and to supplement statutes that provide for the enforcement of support, health care, and parenting time orders with respect to divorce, separate maintenance, paternity, child custody, and spouse support; to prescribe certain provisions of those orders; to prescribe the powers and duties of the circuit court and friend of the court; to prescribe certain duties of certain employers and other sources of income; to provide for penalties and remedies; and to repeal acts and parts of acts," sections 31 and 32 as amended by Act No. 108 of the Public Acts of 1983 and section 44 as amended by Act No. 25 of the Public Acts of 1996, being sections 552.631, 552.632, and 552.644 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 31, 32, and 44 of Act No. 295 of the Public Acts of 1982, sections 31 and 32 as amended by Act No. 108 of the Public Acts of 1983 and section 44 as amended by Act No. 25 of the Public Acts of 1996, being sections 552.631, 552.632, and 552.644 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 31. (1) If any person has been ordered to pay support under a support order and fails or refuses to obey and perform the order, and if an order of income withholding is inapplicable or unsuccessful, a recipient of support or the office of the friend of the court may commence a civil contempt proceeding by filing in the circuit court a petition for an order to show cause why the delinquent payer should not be held in contempt. If the payer fails to appear in response to an order to show cause, the court may issue a bench warrant requiring that the payer be brought before the court without unnecessary delay to answer and plead to that neglect or refusal.

(2) If the court issues a bench warrant under this section, except for good cause shown on the record, the court shall order the payer to pay the costs related to the hearing, issuance of the warrant, arrest, and further hearings. Those costs and costs ordered for failure to appear under sections 32 and 44 shall be transmitted to the county treasurer for distribution as required in section 2530 of Act No. 236 of the Public Acts of 1961, being section 600.2530 of the Michigan Compiled Laws.

Sec. 32. (1) A payer who is arrested under a bench warrant issued after June 30, 1983, under section 31 and who cannot be brought before the court within 24 hours may recognize for his or her appearance by leaving with the sheriff or deputy sheriff in charge of the county jail a sum of money in the amount determined by the court and stated in the bench warrant but not to exceed the amount of arrearage under the support order that is stated on the bench warrant plus costs that may be ordered if the payer fails to appear.

(2) A payer who is arrested under a bench warrant issued before July 1, 1983, and who cannot be brought before the court within 24 hours may recognize for his or her appearance by leaving with the sheriff or deputy sheriff in charge of the county jail a sum of money determined as follows:

(a) If the amount of the bond is specified on the bench warrant, that specified amount.

(b) If the amount of the bond is not specified on the bench warrant, the payer shall be taken without unnecessary delay before the most convenient district judge or district court magistrate to determine the amount of the bond.

(3) The officer receiving the deposit shall give to the arrested payer a receipt for the money so deposited with the officer on a form as follows:

Date _____

Received from _____ the sum of _____ dollars as cash bail to assure the appearance of _____ before _____ circuit court judge in the county of _____, at _____ on the ____ day of _____, 19____, to respond to an order to show cause why he or she should not be held in contempt for failure or refusal to obey or perform a support order. If the payer fails to appear at the time and place indicated above, to submit to the jurisdiction of the court, and to abide by any order of the court, the money deposited shall be transmitted to the friend of the court for payment of the arrearage to the recipient of support and of costs to the court. By depositing the money with the officer and accepting this receipt, the recipient of this receipt waives any and all claim to the money following its transmittal to the friend of the court.

Officer: _____ Dept.: _____

(4) The officer receiving the deposit shall in turn deposit the bond received under this section with the clerk of the court that issued the bench warrant.

(5) On the basis of the hearing on the order to show cause, the court by order shall determine how much of the money deposited under this section is to be transmitted to the friend of the court for payment to 1 or more recipients of support and shall return the balance, if any, to the payer.

(6) If the payer fails to appear as required, the court shall transmit the deposit to the friend of the court 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.

Sec. 44. (1) If the office of the friend of the court determines that application of a makeup parenting time policy under section 41(1)(a) is unsuccessful in resolving a parenting time dispute or that action should otherwise be taken under section 41(1)(b), the office of the friend of the court shall commence a civil contempt proceeding to resolve a dispute concerning parenting time with a minor child by filing with the circuit court a petition for an order to show cause why either parent who has violated a parenting time order should not be held in contempt. The office of the friend of the court shall notify the parent who is the subject of the petition. The notice shall include at least all of the following:

(a) A list of each possible sanction if the parent is found in contempt.

(b) The right of the parent to a hearing on a proposed modification of parenting time if requested within 14 days after the date of the notice, as provided in section 45.

(2) If the court finds that either parent has violated a parenting time order, the court shall find that parent in contempt and may do 1 or more of the following:

(a) Require additional terms and conditions consistent with the court's parenting time order.

(b) After notice to both parties and a hearing, if requested by a party, on a proposed modification of parenting time, modify the parenting time order to meet the best interests of the child.

(c) Order that makeup parenting time be provided for the noncustodial parent to take the place of wrongfully denied parenting time.

(d) Order the parent to pay a fine of not more than \$100.00.

(e) Commit the parent to the county jail.

(f) Commit the parent to the county jail with the privilege of leaving the jail during the hours the court determines necessary, and under the supervision the court considers necessary, for the purpose of allowing the parent to go to and return from his or her place of employment.

(g) If the parent holds an occupational or driver's license, condition the suspension of the parent's occupational or driver's license upon noncompliance with an order for makeup and ongoing parenting time.

(h) State on the record the reason the court is not ordering a sanction listed in subdivisions (a) to (g).

(3) A commitment under subsection (2)(e) or (f) shall not exceed 45 days for the first finding of contempt or 90 days for each subsequent finding of contempt. A parent committed under subsection (2)(e) or (f) shall be released if the court has reasonable cause to believe that the parent will comply with the parenting time order.

(4) If a parent fails to appear in response to an order to show cause, the court may issue a bench warrant requiring that the parent be brought before the court without unnecessary delay to show cause why the parent should not be held in contempt. Except for good cause shown on the record, the court shall further order the parent to pay the costs of the hearing, the issuance of the warrant, the arrest, and further hearings, which costs shall be transmitted to the county treasurer for distribution as provided in section 31.

Section 2. This amendatory act shall take effect January 1, 1997.

Section 3. This amendatory act shall not take effect unless Senate Bill No. 594 of the 88th Legislature is enacted into law.

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.