

HOUSE BILL No. 5206

(As amended December 13, 2001)

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October 16, 2001, Introduced by Reps. Whitmer, Murphy, Kolb, Pappageorge, Zelenko, Rivet, Plakas, Basham, Jacobs, Neumann, Pestka, McConico, Adamini, Rich Brown, Bogardus and Thomas and referred to the Committee on Family and Children Services.

[A bill to amend 1982 PA 295, entitled "Support and parenting time enforcement act," by amending sections 2, 31, and 32 (MCL 552.602, 552.631, and 552.632), section 2 as amended by 199 PA 160 and sections 31 and 32 as amended by 2000 PA 442, and by adding section 32a.]

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

[Sec. 2. As used in this act:

(a) "Account" means any of the following:

- (i) A demand deposit account.
- (ii) A draft account.
- (iii) A checking account.
- (iv) A negotiable order of withdrawal account.
- (v) A share account.
- (vi) A savings account.
- (vii) A time savings account.
- (viii) A mutual fund account.
- (ix) A securities brokerage account.
- (x) A money market account.
- (xi) A retail investment account.

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

- (i) A trust.
- (ii) An annuity.
- (iii) A qualified individual retirement account.
- (iv) An account covered by the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829.
- (v) A pension or retirement plan.
- (vi) An insurance policy.

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

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

(E) ~~(d)~~ "Department" means the family independence agency.

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

(G) ~~(f)~~ "Employer" means an individual, sole proprietorship, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision

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of another state, or another legal entity that hires and pays an individual for his or her services.

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

- (I) ~~(h)~~ "Financial institution" means any of the following:
- (i) A state or national bank.
 - (ii) A state or federally chartered savings and loan association.
 - (iii) A state or federally chartered savings bank.
 - (iv) A state or federally chartered credit union.
 - (v) An insurance company.
 - (vi) An entity that offers any of the following to a resident of this state:
 - (A) A mutual fund account.
 - (B) A securities brokerage account.
 - (C) A money market account.
 - (D) A retail investment account.
 - (vii) An entity regulated by the securities and exchange commission that collects funds from the public.
 - (viii) An entity that is a member of the national association of securities dealers and that collects funds from the public.
 - (ix) Another entity that collects funds from the public.
- (J) ~~(i)~~ "Friend of the court act" means 1982 PA 294, MCL 552.501 to 552.535.
- (K) ~~(j)~~ "Income" means any of the following:
- (i) Commissions, earnings, salaries, wages, and other income due or to be due in the future to an individual from his or her employer and successor employers.
 - (ii) A payment due or to be due in the future to an individual from a profit-sharing plan, a pension plan, an insurance contract, an annuity, social security, unemployment compensation, supplemental unemployment benefits, or worker's compensation.
 - (iii) An amount of money that is due to an individual as a debt of another individual, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that is indebted to the individual.
- (L) ~~(k)~~ "Insurer" means an insurer, health maintenance organization, health care corporation, or other group, plan, or entity that provides health care coverage in accordance with any of the following acts:
- (i) The public health code, 1978 PA 368, MCL 333.1101 to 333.25211.
 - (ii) The insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.
 - (iii) The nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704.
- (M) ~~(l)~~ "Medical assistance" means medical assistance as established under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to ~~1396f, 1396g-1 to~~ 1396r-6 ~~,~~ and 1396r-8 to 1396v.
- (N) ~~(m)~~ "Occupational license" means a certificate, registration, or license issued by a state department, bureau, or agency that has regulatory authority over an individual that allows an individual to legally engage in a regulated occupation or that allows the individual to use a specific title in the practice of an occupation, profession, or vocation.
- (O) ~~(n)~~ "Office of child support" means the office of child support established in section 2 of the office of child support act, 1971 PA 174, MCL 400.232.
- (P) ~~(o)~~ "Office of the friend of the court" means an agency

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created in section 3 of the friend of the court act, MCL 552.503.

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

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

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

(T) ~~(s)~~ "Political subdivision" means a county, city, village, township, educational institution, school district, or special district or authority of the state or of a local unit of government.

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

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

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

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

(V) ~~(u)~~ "Recreational or sporting license" means a hunting, fishing, or fur harvester's license issued under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, but does not include a commercial fishing license or permit issued under part 473 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.47301 to 324.47362.

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

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

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

(Z) ~~(y)~~ "Support" means all of the following:

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

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

(iii) A surcharge accumulated under section 3a.

(AA) ~~(z)~~ "Support order" means an order entered by the circuit court for the payment of support, whether or not a sum certain.

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

(i) Unsubsidized employment.

(ii) Subsidized private sector employment.

(iii) Subsidized public sector employment.

(iv) Work experience, including work associated with the refurbishing of publicly assisted housing, if sufficient private

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sector employment is not available.

(v) On-the-job training.

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(vi) Job search and job readiness assistance.

(vii) Community service programs.

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

(ix) Job skills training directly related to employment.

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

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

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

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 unsuc-
4 cessful, a recipient of support or the office of the friend of
5 the court may commence a civil contempt proceeding by filing in
6 the circuit court a petition for an order to show cause why the
7 delinquent payer should not be held in contempt. If the payer
8 fails to appear in response to an order to show cause, the court
9 may issue a bench warrant requiring that the payer be brought

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1 before the court without unnecessary delay to answer and plead to
2 that neglect or refusal.

3 (2) In a bench warrant issued under this section, the court
4 shall require that, upon arrest, unless the payer deposits ~~a~~
5 ~~bond or~~ cash in the manner required by section 32, the payer
6 shall remain in custody until the time of the hearing. Except as
7 otherwise provided in this section, the ~~bond or~~ cash amount
8 shall be set at not less than \$500.00 or 25% of the arrearage,
9 whichever is greater. At its own discretion, the court may add
10 to the amount of the required deposit the amount of the costs the
11 court may require under subsection (3).

12 (3) If the court issues a bench warrant under this section,
13 except for good cause shown on the record, the court shall order
14 the payer to pay the costs related to the hearing, issuance of
15 the warrant, arrest, and further hearings. Those costs and costs
16 ordered for failure to appear under sections 32 and 44 shall be
17 transmitted to the county treasurer for distribution as required
18 in section 2530 of the revised judicature act of 1961, 1961
19 PA 236, MCL 600.2530.

20 Sec. 32. (1) If a payer arrested under a bench warrant
21 issued under section 31 cannot be brought before the court within
22 24 hours, the payer may recognize for his or her appearance by
23 leaving with the sheriff or deputy sheriff in charge of the
24 county jail ~~a bond or~~ cash in the amount stated on the bench
25 warrant.

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

4 Date _____

5 Received from _____ ~~a bond or~~ cash in the amount
6 of _____ dollars to assure the appearance of

7 _____ before _____ circuit court judge

8 in the county of _____, at _____ on the _____

9 day of _____, ~~19~~ 20__, to respond to an order to show

10 cause why he or she should not be held in contempt for failure or

11 refusal to obey or perform a support order. If the payer fails

12 to appear at the time and place indicated above, fails to submit

13 to the jurisdiction of the court, and fails to abide by an order

14 of the court, the ~~bond or~~ cash deposited shall be transmitted

15 to the friend of the court or to the state disbursement unit for

16 payment of the arrearage to the recipient of support and of costs

17 to the court. By depositing the ~~bond or~~ cash with the officer

18 and accepting this receipt, the recipient of this receipt waives

19 a claim ~~to the money under the bond or~~ to the cash following

20 its transmittal to the friend of the court or to the SDU.

21 _____

22 Officer: _____ Dept.: _____

23 (3) The officer receiving the ~~bond or~~ cash shall in turn

24 deposit the ~~bond or~~ cash received under this section with the

25 clerk of the court that issued the bench warrant.

26 (4) On the basis of the hearing on the order to show cause,

27 the court by order shall determine how much of the ~~bond or~~ cash

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1 deposited under this section is to be transmitted to the friend
2 of the court or to the SDU for payment to 1 or more recipients of
3 support and shall return the balance, if any, to the payer.

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

10 (6) If the payer does not post the ~~bond or~~ cash under this
11 section and remains in custody, the court shall hold the show
12 cause hearing within ~~48~~ 72 hours after the arrest.

[SEC. 32A. IF A PAYER IS ARRESTED AFTER A BENCH WARRANT FOR
THE PAYER'S ARREST IS ISSUED UNDER THIS ACT, IN ADDITION TO OTHER
COURT DISPOSITION UNDER THIS ACT, THE COURT MAY ORDER THE PAYER TO
ATTEND A FATHERHOOD, MOTHERHOOD, OR PARENTAL RESPONSIBILITY CLASS.
THE FRIEND OF THE COURT FOR THE JURISDICTION IN WHICH THE PAYER IS
ORDERED TO ATTEND THAT CLASS MAY MONITOR THE PAYER'S CLASS
ATTENDANCE.]