

**SUBSTITUTE FOR
HOUSE BILL NO. 5472**

A bill to amend 1982 PA 295, entitled
"Support and parenting time enforcement act,"
by amending sections 2 and 37 (MCL 552.602 and 552.637), section 2
as amended by 2009 PA 193 and section 37 as amended by 1999 PA 160,
and by adding section 35a.

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.

1 (vi) A savings account.

2 (vii) A time savings account.

3 (viii) A mutual fund account.

4 (ix) A securities brokerage account.

5 (x) A money market account.

6 (xi) A retail investment account.

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

8 (i) A trust.

9 (ii) An annuity.

10 (iii) A qualified individual retirement account.

11 (iv) An account covered by the employee retirement income
12 security act of 1974, Public Law 93-406.

13 (v) A pension or retirement plan.

14 (vi) An insurance policy.

15 (C) **"ALTERNATIVE CONTEMPT TRACK" MEANS THE ALTERNATIVE**
16 **CONTEMPT TRACK DOCKET ESTABLISHED UNDER SECTION 35A.**

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

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

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

1 **(G)** ~~(f)~~—"Domestic relations matter" means a circuit court
2 proceeding as to child custody, parenting time, child support, or
3 spousal support, that arises out of litigation under a statute of
4 this state, including, but not limited to, the following:

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

6 (ii) The family support act, 1966 PA 138, MCL 552.451 to
7 552.459.

8 (iii) The child custody act of 1970, 1970 PA 91, MCL 722.21 to
9 722.31.

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

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

12 (vi) The revised uniform reciprocal enforcement of support act,
13 1952 PA 8, MCL 780.151 to 780.183.

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

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

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

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

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

1 (i) A state or national bank.

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

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

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

6 (v) An insurance company.

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

9 (A) A mutual fund account.

10 (B) A securities brokerage account.

11 (C) A money market account.

12 (D) A retail investment account.

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

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

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

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

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

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

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

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

1 an annuity, social security, unemployment compensation,
2 supplemental unemployment benefits, or worker's compensation.

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

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

13 (i) The public health code, 1978 PA 368, MCL 333.1101 to
14 333.25211.

15 (ii) The insurance code of 1956, 1956 PA 218, MCL 500.100 to
16 500.8302.

17 (iii) The nonprofit health care corporation reform act, 1980 PA
18 350, MCL 550.1101 to 550.1704.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 **(AA)** ~~(z)~~—"Recreational or sporting license" means a hunting,
10 fishing, or fur harvester's license issued under the natural
11 resources and environmental protection act, 1994 PA 451, MCL
12 324.101 to 324.90106, but does not include a commercial fishing
13 license or permit issued under part 473 of the natural resources
14 and environmental protection act, 1994 PA 451, MCL 324.47301 to
15 324.47362.

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

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

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

24 **(EE)** ~~(dd)~~—"State friend of the court bureau" means that bureau
25 as created in the state court administrative office under section
26 19 of the friend of the court act, MCL 552.519.

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

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

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

10 (iii) A surcharge under section 3a.

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

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

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

20 **(JJ)** ~~(ii)~~ "Work activity" means any of the following:

21 (i) Unsubsidized employment.

22 (ii) Subsidized private sector employment.

23 (iii) Subsidized public sector employment.

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

27 (v) On-the-job training.

(vi) Referral to and participation in the work first program prescribed in the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, or other job search and job readiness assistance.

(vii) A community service program.

(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 provision of child care services to an individual who is participating in a community service program.

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

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

(A) A DOCUMENTED MEDICAL CONDITION.

(B) A DOCUMENTED PSYCHOLOGICAL DISORDER.

(C) SUBSTANCE USE DISORDER.

(D) ILLITERACY.

1 (E) HOMELESSNESS.

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

4 (G) UNEMPLOYMENT LASTING LONGER THAN 27 WEEKS.

5 (3) THE ALTERNATIVE CONTEMPT TRACK SHALL PROVIDE FOR ALL OF
6 THE FOLLOWING:

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

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

11 (C) THE COURT MAY DIRECT THE SHERIFF TO TAKE INTO CUSTODY A
12 PAYER WHO FAILS TO COMPLY WITH THE PLAN DESCRIBED IN SUBDIVISION
13 (B) UNDER THE CONDITIONS AND FOR THE TIME THAT THE COURT DIRECTS TO
14 BRING THE PAYER INTO COMPLIANCE WITH THE PLAN DESCRIBED UNDER
15 SUBDIVISION (B). A PAYER SHALL NOT BE ORDERED TO REMAIN IN THE
16 SHERIFF'S CUSTODY LONGER THAN 45 DAYS FOR ANY SINGLE PLAN
17 VIOLATION.

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

22 (E) THE PAYER IS REQUIRED TO APPEAR FOR REVIEW HEARINGS AS
23 SCHEDULED BY THE COURT AND IS SUBJECT TO ARREST ACCORDING TO
24 SECTION 31.

25 (F) THE PLAN DESCRIBED IN SUBDIVISION (B) MAY PROVIDE NOTICE
26 OF MODIFICATION TO THE PAYER AND RECIPIENT OF SUPPORT. THE COURT
27 MAY ENTER A TEMPORARY SUPPORT ORDER OR STAY THE CURRENT ORDER BASED

1 ON THE PERSON'S ABILITY DURING THE PERIOD A PAYER IS UNDER AN
2 ALTERNATIVE CONTEMPT TRACK PLAN. SUBJECT TO SECTION 3(2), THE COURT
3 SHALL ENTER A FINAL SUPPORT ORDER UPON COMPLETION OR TERMINATION OF
4 THE PLAN DESCRIBED IN SUBDIVISION (B). EITHER PARTY MAY OBJECT TO A
5 PROPOSED FINAL SUPPORT ORDER RESULTING FROM A PLAN DESCRIBED IN
6 SUBDIVISION (B). IF AN OBJECTION IS MADE, THE COURT MUST HOLD A
7 SEPARATE HEARING ON THE MATTER OF ENTRY OF A FINAL SUPPORT ORDER.

8 (G) THE COURT MAY DISCHARGE ARREARS OWED TO THE STATE WITH THE
9 STATE'S APPROVAL AND MAY ALSO DISCHARGE ARREARS OWED TO A PAYEE
10 WITH THE PAYEE'S CONSENT UPON SUCCESSFUL COMPLETION OF THE
11 ALTERNATIVE CONTEMPT TRACK.

12 (4) EACH COURT THAT USES AN ALTERNATIVE CONTEMPT TRACK MUST
13 SUBMIT A PLAN FOR THE ALTERNATIVE CONTEMPT TRACK AND OBTAIN
14 APPROVAL OF THE PLAN BY THE STATE COURT ADMINISTRATIVE OFFICE UNDER
15 THE SUPERVISION OF THE SUPREME COURT.

16 Sec. 37. (1) An order of commitment under section 33 or ~~35~~35A
17 shall be entered only if other remedies appear unlikely to correct
18 the payer's failure or refusal to pay support.

19 (2) An order of commitment under section 33 shall separately
20 state both of the following:

21 (a) The amount of the arrearage under the support order.

22 (b) The amount to be paid by the payer in order to be released
23 from the order of commitment, which amount may not be greater than
24 the payer's currently available resources as found by the court.

25 (3) An order of commitment under section ~~35~~35A shall
26 separately state both of the following:

27 (a) The amount of arrearage under the support order.

1 (b) The amount to be paid in order to be released from the
2 order of commitment.

3 (4) A commitment shall continue until the amount ordered to be
4 paid under subsection (2)(b) or (3)(b) is paid but shall not exceed
5 45 days for the first adjudication of contempt or 90 days for a
6 subsequent adjudication of contempt.

7 (5) The court may further direct that a portion or all of the
8 earnings of the payer in the facility or institution shall be paid
9 to and applied for support until the payer complies with the order
10 of the court, until the payer is released ~~pursuant to~~ **UNDER** this
11 section from an order of commitment, or until the further order of
12 the court. If it appears that the department has contributed
13 towards the support of the minor child or children during the
14 period of noncompliance with the order of the court, the court, in
15 the contempt proceedings, may order all or part of a lump sum
16 payment to the office of the friend of the court, state
17 disbursement unit, or county clerk to be paid to the department not
18 to exceed the amount of the contribution made by the department.
19 The court may order the money paid to the person or persons
20 entitled to the money in weekly or monthly installments by the
21 office of the friend of the court, SDU, or county clerk to the
22 extent that the court considers installments necessary for support.
23 Enacting section 1. This amendatory act takes effect 90 days
24 after the date it is enacted into law.