

Act No. 336
Public Acts of 1996
Approved by the Governor
June 25, 1996
Filed with the Secretary of State
June 26, 1996

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

Introduced by Senators Bouchard and Gougeon

ENROLLED SENATE BILL No. 881

AN ACT to amend sections 33 and 35 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," section 35 as amended by Act No. 210 of the Public Acts of 1985, being sections 552.633 and 552.635 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 33 and 35 of Act No. 295 of the Public Acts of 1982, section 35 as amended by Act No. 210 of the Public Acts of 1985, being sections 552.633 and 552.635 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 33. (1) The court may find a payer in contempt if the court finds that the payer is in arrears and if the court is satisfied that the payer has the capacity to pay out of currently available resources all or some portion of the amount due under the support order. In the absence of proofs to the contrary introduced by the payer, the court shall presume that the payer has currently available resources equal to 4 weeks of payments under the support order. The court shall not find that the payer has currently available resources of more than 4 weeks of payments without proof of those resources by the office of the friend of the court or the recipient of support. Upon finding a payer in contempt of court under this section, the court may immediately enter an order doing 1 of the following:

- (a) Committing the payer to the county jail.
- (b) Committing the payer to the county jail with the privilege of leaving the jail during the hours the court determines, and under the supervision the court considers, necessary for the purpose of allowing the payer to go to and return from his or her place of employment.
- (c) Committing the payer to a penal or correctional facility in this state that is not operated by the state department of corrections.
- (d) If the payer holds an occupational or driver's license, conditioning a suspension of the payer's occupational or driver's license, or both, upon noncompliance with an order for payment of the arrearage in 1 or more scheduled installments of a sum certain. A court shall not order the sanction authorized by this subdivision unless the court finds that the payer has accrued an arrearage of support payments in an amount greater than the amount of periodic support payments payable for 3 months under the payer's support order.

(2) If the court enters an order under subsection (1)(d) and the payer fails to comply with the arrearage payment schedule, after notice and opportunity for a hearing, the court shall order suspension of the payer's occupational or driver's license, or both, and proceed under section 30.

Sec. 35. (1) The court may find a payer in contempt if the court finds that the payer is in arrears and if the court is satisfied that by the exercise of diligence the payer could have the capacity to pay all or some portion of the amount due under the support order and that the payer fails or refuses to do so.

(2) Upon finding a payer in contempt of court under this section, the court may immediately enter an order doing either of the following:

(a) Committing the payer to the county jail with the privilege of leaving the jail during the hours the court determines, and under the supervision the court considers, necessary for the purpose of allowing the payer to go to and return from his or her place of employment or, if the person wishes to seek employment, to seek employment.

(b) If the payer holds an occupational or driver's license, conditioning a suspension of the payer's occupational or driver's license, or both, upon noncompliance with an order for payment of the arrearage in 1 or more scheduled installments of a sum certain. A court shall not order the sanction authorized by this subdivision unless the court finds that the payer has accrued an arrearage of support payments in an amount greater than the amount of periodic support payments payable for 3 months under the payer's support order.

(3) Notwithstanding the length of commitment imposed under this section, an unemployed payer committed to a county jail under this section who finds employment shall be released from jail if either of the following applies:

(a) The payer is self-employed and has completed 2 consecutive weeks at his or her employment.

(b) The payer is employed and has completed 2 consecutive weeks at his or her employment and an order of income withholding is effective.

(4) If the court enters an order under subsection (2)(b) and the payer fails to comply with the arrearage payment schedule, after notice and an opportunity for a hearing, the court shall order suspension of the payer's occupational or driver's license, or both, and proceed under section 30.

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

Section 3. This amendatory act shall not take effect unless all of the following bills of the 88th Legislature are enacted into law:

- (a) House Bill No. 5384.
- (b) House Bill No. 5385.
- (c) House Bill No. 5386.
- (d) House Bill No. 5387.
- (e) House Bill No. 5388.
- (f) House Bill No. 5389.

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved _____

Governor.

