

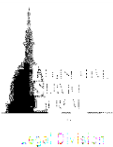
# HOUSE BILL NO. 5850

June 11, 2020, Introduced by Reps. Warren, Yancey, Stone, Lasinski, Bolden, Hood, Brenda Carter, Tyrone Carter, Hope, Whitsett, Sneller, Sabo, Sowerby, Cambensy, Clemente, Cherry, Manoogian, Kuppa, Hoadley, Gay-Dagnogo, Guerra, Brann, O'Malley, Kahle, Wozniak, Brixie, Peterson, Meerman, Ellison, Wittenberg, Hammoud, Kennedy, Chirkun and Cynthia Johnson and referred to the Committee on Judiciary.

A bill to amend 1982 PA 295, entitled "Support and parenting time enforcement act," by amending sections 28, 29, 30, 44, and 45 (MCL 552.628, 552.629, 552.630, 552.644, and 552.645), sections 28, 29, and 30 as amended by 2009 PA 193 and sections 44 and 45 as amended by 2014 PA 378.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           Sec. 28. (1) For a friend of the court case, a payer's  
2 occupational license, ~~driver's license, or~~ recreational or sporting  
3 license, or any combination of the licenses ~~,~~ may be suspended if



1 all of the following circumstances are true:

2 (a) An arrearage has accrued in an amount greater than the  
3 amount of periodic support payments payable for 2 months under the  
4 payer's support order.

5 (b) An order of income withholding is not applicable or has  
6 been unsuccessful in assuring regular payments on the support  
7 obligation and regular payments on the arrearage.

8 (2) Before seeking the suspension of a license described in  
9 subsection (1), ~~an~~**the** office of the friend of the court shall send  
10 the payer a notice that includes all of the following information:

11 (a) The amount of the arrearage.

12 (b) That the payer's occupational license, ~~driver's license,~~  
13 ~~or~~recreational or sporting license, or any combination of the  
14 licenses ~~may~~ be subject to suspension.

15 (c) That a suspension order or notice will be sent to the  
16 licensing agency unless the payer responds by paying the arrearage  
17 or requesting a hearing within 21 days after the date of mailing  
18 the notice.

19 (d) That, if a hearing is requested, the payer may do either  
20 of the following at the hearing:

21 (i) Object to the proposed suspension based on a mistake of  
22 fact concerning the overdue support amount or the payer's identity.

23 (ii) Ask the court to order a schedule for the payment of the  
24 arrearage.

25 (e) That, if the payer believes that the amount of support  
26 ordered should be modified due to a change in circumstances, the  
27 payer may file a petition with the court for modification of the  
28 support order.

29 Sec. 29. (1) Within 21 days after the date on which a notice



1 described in section 28 is mailed to a payer, the payer may request  
2 a hearing on the proposed suspension. If the payer requests a  
3 hearing within that time, a suspension order ~~shall~~**must** not be  
4 entered and a suspension notice ~~shall~~**must** not be sent pending the  
5 outcome of the hearing.

6 (2) If a payer files a petition for modification of the  
7 support order and the petition is pending at the date scheduled for  
8 a hearing under this section, the court shall consolidate the  
9 hearing under this section and a hearing on the petition for  
10 modification unless the court finds for good cause shown on the  
11 record that the hearings should be held separately. If the court  
12 finds that the hearings should be held separately, the hearing on  
13 the petition for modification ~~shall~~**must** be held before the hearing  
14 scheduled under this section.

15 (3) If, after a hearing under this section, the court  
16 determines that the payer has accrued an arrearage on his or her  
17 support order and that the payer has, or could by the exercise of  
18 due diligence have, the capacity to pay all or some portion of the  
19 amount due, the court shall order the payment of the arrearage, as  
20 reasonable, in 1 or more scheduled installments of a sum certain.

21 ~~(4) After 21 days after the date on which a notice described~~  
22 ~~in section 28 is sent, the friend of the court shall notify the~~  
23 ~~secretary of state if the payer has failed to request or attend a~~  
24 ~~hearing on the proposed suspension or pay the arrearage in full. On~~  
25 ~~receiving the notice from the friend of the court, the secretary of~~  
26 ~~state shall suspend the payer's driver's license as provided in~~  
27 ~~section 321c of the Michigan vehicle code, 1949 PA 300, MCL~~  
28 ~~257.321c.~~

29 (4) ~~(5)~~The court may order the suspension of the payer's



1 occupational license or recreational or sporting license, or any  
 2 combination of the licenses included in the notice under section  
 3 28, under either of the following circumstances:

4 (a) The payer fails to pay the arrearage and fails to either  
 5 request a hearing as provided in subsection (1) or appear for a  
 6 hearing scheduled after such a request.

7 (b) The court determines after a hearing that the payer has  
 8 failed to comply with an arrearage payment schedule ordered under  
 9 this section.

10 ~~(6) If a court determines that a payer has failed to comply~~  
 11 ~~with an arrearage payment schedule ordered under this section, the~~  
 12 ~~court may direct the friend of the court to notify the secretary of~~  
 13 ~~state of the failure. On receiving the notice from the friend of~~  
 14 ~~the court, the secretary of state shall suspend the payer's~~  
 15 ~~driver's license as provided in section 321c of the Michigan~~  
 16 ~~vehicle code, 1949 PA 300, MCL 257.321c.~~

17 Sec. 30. (1) If the court orders a suspension of an  
 18 occupational license, ~~driver's license, or~~ recreational or sporting  
 19 license, or any combination of the licenses ~~7,~~ under section 29, 33,  
 20 ~~35,~~ or 45, the order ~~shall~~ **must** indicate that the licensing agency  
 21 shall suspend the license within 7 business days after receipt of  
 22 the suspension order, or sooner if required by the act that  
 23 authorizes the licensing agency to suspend the license. The office  
 24 of the friend of the court shall send a copy of the suspension  
 25 order to the licensing agency.

26 (2) After a suspension order is entered or after a suspension  
 27 under section 29, a payer may agree to and the court may order a  
 28 reasonable schedule for the payment of the arrearage. If the court  
 29 orders a schedule for payment of the arrearage, the court ~~or the~~



1 ~~friend of the court, as applicable, shall do the following:~~

2       ~~(a) The court shall enter an order rescinding the suspension~~  
 3 order that is effective as provided in section 4 of the regulated  
 4 occupation support enforcement act, 1996 PA 236, MCL 338.3434, or  
 5 section 43559 of the natural resources and environmental protection  
 6 act, 1994 PA 451, MCL 324.43559. If a suspension order has been  
 7 sent, within 7 business days after entry of the order rescinding  
 8 the suspension order, the office of the friend of the court shall  
 9 send a copy of the order rescinding the suspension order to the  
 10 licensing agency.

11       ~~(b) The friend of the court, on verification by the clerk of~~  
 12 ~~the court that the driver's license clearance fee required by~~  
 13 ~~section 321c of the Michigan vehicle code, 1949 PA 300, MCL~~  
 14 ~~257.321c, has been paid, shall provide a certificate to the payer~~  
 15 ~~stating that the payer is in compliance with the support order.~~

16       Sec. 44. (1) If the office of the friend of the court  
 17 determines that a procedure for resolving a parenting time dispute  
 18 authorized under section 41 other than a civil contempt proceeding  
 19 is unsuccessful in resolving the parenting time dispute, the office  
 20 of the friend of the court shall commence a civil contempt  
 21 proceeding to resolve the dispute as provided by the supreme court  
 22 rule. The contempt proceeding notice ~~shall~~**must** include, either in  
 23 the notice or by reference to another document attached to the  
 24 notice, a statement of the allegations ~~upon~~**on** which the dispute is  
 25 based and at least all of the following:

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

28       (b) The right of the parent to a hearing on a proposed  
 29 modification of parenting time if requested within 21 days after



1 the date of the notice, as provided in section 45.

2 (2) If the court finds that either parent has violated a  
3 parenting time order without good cause, the court shall find that  
4 parent in contempt and may do 1 or more of the following:

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

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

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

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

14 (e) Commit the parent to the county jail or an alternative to  
15 jail.

16 (f) Commit the parent to the county jail or an alternative to  
17 jail with the privilege of leaving the jail or other place of  
18 detention during the hours the court determines necessary, and  
19 under the supervision the court considers necessary, for the  
20 purpose of allowing the parent to go to and return from his or her  
21 place of employment.

22 (g) If the parent holds an occupational license ~~, driver's~~  
23 ~~license,~~ or recreational or sporting license, condition the  
24 suspension of the license, or any combination of the licenses, ~~upon~~  
25 **on** noncompliance with an order for makeup and ongoing parenting  
26 time.

27 (h) If available within the court's jurisdiction, order the  
28 parent to participate in a community corrections program  
29 established as provided in the community corrections act, 1988 PA



1 511, MCL 791.401 to 791.414.

2 (i) Place the parent under the supervision of the office for a  
3 term fixed by the court with reasonable conditions, including 1 or  
4 more of the following:

5 (i) Participating in a parenting program.

6 (ii) Participating in drug or alcohol counseling.

7 (iii) Participating in a work program.

8 (iv) Seeking employment.

9 (v) Participating in other counseling.

10 (vi) Continuing compliance with a current support or parenting  
11 time order.

12 (vii) Entering into and compliance with an arrearage payment  
13 plan.

14 (viii) Facilitating makeup parenting time.

15 (3) The court shall state on the record the reason the court  
16 is not ordering a sanction listed in subsection (2). For the  
17 purpose of subsection (2), "good cause" includes, but is not  
18 limited to, consideration of the safety of a child or party who is  
19 governed by the parenting time order.

20 (4) A commitment under subsection (2)(e) or (f) ~~shall~~**must** not  
21 exceed 45 days for the first finding of contempt or 90 days for  
22 each subsequent finding of contempt. A parent committed under  
23 subsection (2)(e) or (f) shall be released if the court has  
24 reasonable cause to believe that the parent will comply with the  
25 parenting time order.

26 (5) If a parent fails to appear in response to a contempt  
27 proceeding, the court may issue a bench warrant requiring that the  
28 parent be brought before the court without unnecessary delay to  
29 show cause why the parent should not be held in contempt. Except



1 for good cause shown on the record, the court shall further order  
2 the parent to pay the costs of the hearing, the issuance of the  
3 warrant, the arrest, and any later hearings, which costs ~~shall~~**must**  
4 be transmitted to the county treasurer for distribution as provided  
5 in section 31. If the hearing cannot be held immediately after the  
6 parent's arrest, the parent may be released if a bond in the amount  
7 of the fines, costs, and sanctions imposed under this section and  
8 any additional amount the court determines is necessary to secure  
9 the parent's appearance is deposited with the court.

10 (6) If the court finds that a party to a parenting time  
11 dispute has acted in bad faith, the court shall order the party to  
12 pay a sanction of not more than \$250.00 for the first time the  
13 party is found to have acted in bad faith, not more than \$500.00  
14 for the second time, and not more than \$1,000.00 for the third or a  
15 subsequent time. A sanction ordered under this subsection ~~shall~~  
16 **must** be deposited in the friend of the court fund created in  
17 section 2530 of the revised judicature act of 1961, 1961 PA 236,  
18 MCL 600.2530, and shall be used to fund services that are not title  
19 IV-D services.

20 (7) A fine ordered under subsection (2), costs ordered under  
21 subsection (5), or a sanction ordered under subsection (6) is a  
22 judgment at the time the order is entered.

23 (8) If the court finds that a party to a parenting time  
24 dispute has acted in bad faith, the court shall order the party to  
25 pay the other party's costs.

26 (9) If the court issues a bench warrant under this section,  
27 the court may enter an order that a law enforcement agency render  
28 any vehicle owned by the payer temporarily inoperable, by booting  
29 or another similar method, subject to release on deposit of an





1 appropriate bond.

2       Sec. 45. (1) If the court enters an order under section  
3 44(2) (g) and the parent fails to comply with the makeup and ongoing  
4 parenting time schedule, the court shall find the parent in  
5 contempt and, after notice and an opportunity for a hearing, may  
6 suspend the parent's license or licenses with respect to which the  
7 order under section 44(2) (g) was entered and proceed under section  
8 30.

9       (2) After entry of a suspension order under subsection (1), a  
10 parent may agree to a makeup parenting time schedule. The court may  
11 order a makeup parenting time schedule if the parent demonstrates a  
12 ~~good faith~~**good-faith** effort to comply with the parenting time  
13 order. If the court orders a makeup parenting time schedule, the  
14 court ~~or the friend of the court, as applicable, shall do the~~  
15 ~~following:~~

16       ~~(a) The court shall enter an order rescinding the suspension~~  
17 ~~order that is effective as provided in section 4 of the regulated~~  
18 ~~occupation support enforcement act, 1996 PA 236, MCL 338.3434, or~~  
19 ~~section 43559 of the natural resources and environmental protection~~  
20 ~~act, 1994 PA 451, MCL 324.43559. Within 7 business days after entry~~  
21 ~~of the order rescinding the suspension order, the office of the~~  
22 ~~friend of the court shall send a copy of the order rescinding the~~  
23 ~~suspension order to the licensing agency.~~

24       ~~(b) The friend of the court, on verification by the clerk of~~  
25 ~~the court that the driver's license clearance fee required by~~  
26 ~~section 321c of the Michigan vehicle code, 1949 PA 300, MCL~~  
27 ~~257.321c, has been paid, shall provide a certificate to the payer~~  
28 ~~stating that the payer is in compliance with the support order.~~

29       (3) Within 21 days after the date of the notice under section



1 44, a parent who is notified of a contempt hearing under section 44  
2 may request a hearing on a proposed modification of parenting time.  
3 The court shall hold the requested hearing unless the parenting  
4 time dispute is resolved by other means. The court shall combine  
5 the hearing prescribed by this subsection with the hearing on the  
6 order to show cause unless the court finds for good cause shown on  
7 the record that the hearings should be held separately. If the  
8 court finds that the hearings should be held separately, the  
9 hearing on a proposed modification of parenting time ~~shall~~**must** be  
10 held before the contempt hearing.

11 Enacting section 1. This amendatory act does not take effect  
12 unless Senate Bill No.\_\_\_\_ or House Bill No. 5846 (request no.  
13 05617'20 \*) of the 100th Legislature is enacted into law.

