

# HOUSE BILL NO. 5443

October 20, 2021, Introduced by Reps. Brann, LaGrand, Steven Johnson, Young, Hood, Sowerby, Aiyash, Kuppa, Stone, Whitsett and Yancey and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending section 165 (MCL 750.165), as amended by 2014 PA 377.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 165. (1) If the court orders an individual to pay support  
2       for the individual's former or current spouse, or for a child of  
3       the individual, and the individual does not pay the support in the  
4       amount or at the time stated in the order, the individual is guilty  
5       of a felony punishable by imprisonment for not more than 4 years or

1 by a fine of not more than \$2,000.00, or both.

2 (2) This section does not apply unless the court in which the  
3 support order was issued had personal jurisdiction over the  
4 individual ordered to pay support.

5 (3) Unless the individual deposits a cash bond of not less  
6 than \$500.00 or 25% of the arrearage, whichever is greater, upon  
7 arrest for a violation of this section, the individual ~~shall~~**must**  
8 remain in custody until the arraignment. If the individual remains  
9 in custody, the court shall address the amount of the cash bond at  
10 the arraignment ~~and at the preliminary examination and, except for~~  
11 ~~good cause shown on the record, shall order the bond to be~~  
12 ~~continued at not less than \$500.00 or 25% of the arrearage,~~  
13 ~~whichever is greater. At the court's discretion, the court may set~~  
14 ~~the cash bond at an amount not more than 100% of the arrearage and~~  
15 ~~add to that amount the amount of the costs that the court may~~  
16 ~~require under section 31(3) of the support and parenting time~~  
17 ~~enforcement act, 1982 PA 295, MCL 552.631. The court shall specify~~  
18 ~~that the cash bond amount be entered into the law enforcement~~  
19 ~~information network.~~**under the process described in section 6 of**  
20 **chapter V of the code of criminal procedure, 1927 PA 175, MCL**  
21 **765.6.** If a bench warrant under section 31 of the support and  
22 parenting time enforcement act, 1982 PA 295, MCL 552.631, is  
23 outstanding for an individual when the individual is arrested for a  
24 violation of this section, the court shall notify the court  
25 handling the civil support case under the support and parenting  
26 time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, that the  
27 bench warrant may be recalled.

28 (4) The court may suspend the sentence of an individual  
29 convicted under this section if the individual files with the court

1 a bond in the amount and with the sureties the court requires. At a  
2 minimum, the bond must be conditioned on the individual's  
3 compliance with the support order. If the court suspends a sentence  
4 under this subsection and the individual does not comply with the  
5 support order or another condition on the bond, the court may order  
6 the individual to appear and show cause why the court should not  
7 impose the sentence and enforce the bond. After the hearing, the  
8 court may enforce the bond or impose the sentence, or both, or may  
9 permit the filing of a new bond and again suspend the sentence. The  
10 court shall order a support amount enforced under this section to  
11 be paid to the clerk or friend of the court or to the state  
12 disbursement unit.

13 (5) An order for restitution for a violation of this section  
14 ~~shall~~**must** not include a separate award for the unpaid amount in  
15 arrearage under the support order. The restitution order ~~shall~~**must**  
16 reference the support order and direct the individual to pay the  
17 unpaid amount in arrearage under the support order pursuant to the  
18 support order. The court may impose such terms and conditions in  
19 the restitution order as are appropriate to ensure compliance with  
20 payment of the arrearage due under the support order. The court may  
21 order additional restitution as provided under the William Van  
22 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to  
23 780.834.

24 (6) As used in this section, "state disbursement unit" or  
25 "SDU" means the entity established in section 6 of the office of  
26 child support act, 1971 PA 174, MCL 400.236.

27 Enacting section 1. This amendatory act takes effect 90 days  
28 after the date it is enacted into law.

29 Enacting section 2. This amendatory act does not take effect

- 1 unless Senate Bill No.\_\_\_\_ or House Bill No. 5436 (request no.
- 2 00900'21) of the 101st Legislature is enacted into law.