

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)
Act 295 of 1982

552.637 Order of commitment.

Sec. 37.

(1) An order of commitment under section 33 shall be entered only if other remedies appear unlikely to correct the payer's failure or refusal to pay support.

(2) An order of commitment under section 33(1)(a) shall state the amount to be paid by the payer in order to be released from the order of commitment, which amount may not be greater than the payer's currently available resources as found by the court.

(3) An order of commitment under section 33(1)(b) or (c) shall state the conditions that constitute diligence in order to be released from the order of commitment, which conditions must be within the payer's ability to perform.

(4) A commitment shall continue until the payer performs the conditions set forth in the order of commitment but shall not exceed 45 days for the first adjudication of contempt or 90 days for a subsequent adjudication of contempt.

(5) The court may further direct that a portion or all of the earnings of the payer in the facility or institution shall be paid to and applied for support until the payer complies with the order of the court, until the payer is released according to this section from an order of commitment, or until the further order of the court. (6) Notwithstanding the length of commitment imposed under this section, the court may release a payer who is unemployed if committed to a county jail under this section and who finds employment if either of the following applies:

(a) The payer is self-employed, completes 2 consecutive weeks at his or her employment, and makes a support payment as required by the court.

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

(7) If the court enters a commitment order under subsection 33(1)(b) or (c), and the court finds that the payer by performing the conditions set forth in the order of commitment will have the ability to pay specific amounts, the court may establish a specific amount for the payer to pay and do any of the following:

(a) Stay the order of commitment conditioned upon the payer's making the specified payments.

(b) Stay the order of commitment and order that upon default of the payer in making a specified payment, the payer shall be brought before the court for further proceedings in connection with the contempt proceedings that may include committing the payer for the number of days that the payer would have been committed had the court not stayed the order.

(c) Give credit toward the payer's potential maximum commitment for each specified payment made in compliance with the order of commitment.

(8) If the court enters a commitment order under subsection 33(1)(b) or (c), the court may do any of the following:

(a) Stay the order of commitment conditioned upon the payer's complying with the conditions set forth in the order of commitment.

(b) Stay the order of commitment and order that upon default of the payer to satisfy a condition of the order, the payer shall be brought before the court for further proceedings in connection with the contempt proceedings that may include committing the payer for the number of days the payer would have been committed had the order not been stayed.

(c) Give credit toward the payer's potential maximum commitment for complying with conditions in the order.

(d) Incarcerate the payer with the privilege of leaving jail to comply with conditions in the order of commitment.

History: 1982, Act 295, Eff. July 1, 1983 ;-- Am. 1999, Act 160, Imd. Eff. Nov. 3, 1999 ;-- Am. 2014, Act 378, Eff. Mar. 17, 2015

Constitutionality: An indigent defendant may not be incarcerated following a contempt proceeding for failure to pay child support where the assistance of counsel has been denied. *Mead v Batchlor*, 435 Mich 480; 460 NW2d 493 (1990).

Compiler's Notes: In subsection (7), the reference to "subsection 33(1)(b) or (c)" evidently should read "section 33(1)(b) or (c)." In subsection (8), the reference to "subsection 33(1)(b) or (c)" evidently should read "section 33(1)(b) or (c)."