



# HOUSE BILL No. 4602

March 14, 1995, Introduced by Reps. Wallace, Anthony, Dobronski, Parks, Leland, Baird, Yokich, Kilpatrick, Martinez, Scott, Hill, DeMars, Pitoniak and Saunders and referred to the Committee on Judiciary and Civil Rights.

A bill to amend sections 33, 35, and 39 of Act No. 295 of the Public Acts of 1982, entitled as amended "Support and visitation enforcement act," section 35 as amended by Act No. 210 of the Public Acts of 1985, being sections 552.633, 552.635, and 552.639 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 33, 35, and 39 of Act No. 295 of the  
2 Public Acts of 1982, section 35 as amended by Act No. 210 of the  
3 Public Acts of 1985, being sections 552.633, 552.635, and 552.639  
4 of the Michigan Compiled Laws, are amended to read as follows:

5 Sec. 33. (1) The court may find a payer in contempt if the  
6 court finds that the payer is in arrears and if the court is  
7 satisfied that the payer has the capacity to pay out of currently  
8 available resources all or some portion of the amount due under

1 the support order. In the absence of proofs to the contrary  
2 introduced by the payer, the court shall presume that the payer  
3 has currently available resources equal to 4 weeks of payments  
4 under the support order. The court shall not find that the payer  
5 has currently available resources of more than 4 weeks of pay-  
6 ments without proof of ~~such~~ THOSE resources by the office of  
7 the friend of the court or the recipient of support.

8 (2) Upon finding a payer in contempt of court under this  
9 section AND SUBJECT TO SUBSECTION (3), the court may immediately  
10 enter 1 of the following orders:

11 (a) Committing the payer to the county jail.

12 (b) Committing the payer to the county jail with the privi-  
13 lege of leaving the jail, during ~~such~~ THE hours ~~as~~ the court  
14 determines and under ~~such~~ THE supervision ~~as~~ the court con-  
15 sideres necessary, for the purpose of allowing the payer to go to  
16 and return from his or her place of employment.

17 (c) Committing the payer to ~~any~~ A penal or correctional  
18 facility in this state ~~which~~ THAT is not operated by the state  
19 department of corrections.

20 (3) IF THE COURT DECIDES TO INCARCERATE A PAYER WHO IS FOUND  
21 IN CONTEMPT AND THE PAYER PROVES THAT HE OR SHE IS EMPLOYED, THE  
22 COURT SHALL ENTER AN ORDER THAT ALLOWS THE PRIVILEGE PROVIDED  
23 UNDER SUBSECTION (2)(B) AND SHALL INFORM THE OFFICE OF THE FRIEND  
24 OF THE COURT OF THE PAYER'S PLACE OF EMPLOYMENT.

25 Sec. 35. (1) The court may find a payer in contempt if the  
26 court finds that the payer is in arrears and if the court is  
27 satisfied that by the exercise of diligence the payer could have

1 the capacity to pay all or some portion of the amount due under  
2 the support order and has failed or refused to do so.

3 (2) Upon finding a payer in contempt of court under this  
4 section, the court may immediately enter an order committing the  
5 payer to the county jail with the privilege of leaving the jail,  
6 during ~~such~~ THE hours ~~as~~ the court determines and under  
7 ~~such~~ THE supervision ~~as~~ the court considers necessary, for  
8 the purpose of allowing the payer to go to and return from his or  
9 her place of employment or, if the ~~person~~ PAYER wishes to seek  
10 employment, to seek employment. IF THE COURT DECIDES TO INCAR-  
11 CERATE A PAYER WHO IS FOUND IN CONTEMPT AND THE PAYER PROVES THAT  
12 HE OR SHE IS EMPLOYED, THE COURT SHALL ENTER AN ORDER THAT ALLOWS  
13 THE PRIVILEGE PROVIDED UNDER THIS SUBSECTION AND SHALL INFORM THE  
14 OFFICE OF THE FRIEND OF THE COURT OF THE PAYER'S PLACE OF  
15 EMPLOYMENT.

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

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

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

25 Sec. 39. (1) If a payer is committed to jail under section  
26 ~~33(b)~~ 33(2)(B) or 35(2) and violates the conditions of the  
27 court, the court shall commit the payer to the county jail

1 without the privilege provided under section ~~33(b)~~ 33(2)(B) or  
2 35(2) for the balance of the period of the commitment imposed by  
3 the court.

4 (2) If a payer is committed to jail under section ~~33(b)~~  
5 33(2)(B) or 35(2) and fails to return to the place of confinement  
6 within the time prescribed, the payer shall be considered to have  
7 escaped from custody and ~~shall be~~ IS guilty of a misdemeanor,  
8 punishable by imprisonment for not more than 1 year.