

HOUSE BILL No. 6459

October 17, 2018, Introduced by Reps. Brann, LaGrand, LaSata, Calley, Pagel, Howell, Rabhi, Geiss, Sowerby, Moss, Sabo, Cambensy, Hoadley, Wittenberg, Leutheuser, Ellison, Hammoud, Zemke and Howrylak 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
6 by a fine of not more than \$2,000.00, or both.

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

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

22 (4) The court may suspend the sentence of an individual
23 convicted under this section if the individual files with the court
24 a bond in the amount and with the sureties the court requires. At a
25 minimum, the bond must be conditioned on the individual's
26 compliance with the support order. If the court suspends a sentence
27 under this subsection and the individual does not comply with the

1 support order or another condition on the bond, the court may order
2 the individual to appear and show cause why the court should not
3 impose the sentence and enforce the bond. After the hearing, the
4 court may enforce the bond or impose the sentence, or both, or may
5 permit the filing of a new bond and again suspend the sentence. The
6 court shall order a support amount enforced under this section to
7 be paid to the clerk or friend of the court or to the state
8 disbursement unit.

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

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

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