

Hearing on the Merits of the Bench Warrant Checklist

The court may issue a bench warrant for the payer's arrest requiring the payer be brought before the court without unnecessary delay for further proceedings in connection with the contempt proceedings IF:

- a payer fails to appear at a contempt hearing for support arrearage.¹ [MCL 552.631\(1\)\(c\)](#).
- the court stays a commitment order (issued after a contempt hearing for support arrearage)² and the payer fails to satisfy the conditions of the order and that fact is brought to the court's attention by the Friend of the Court (FOC). [MCL 552.631\(2\)](#); [MCL 552.637](#).

If a payer is arrested under a bench warrant in Michigan, the payer must remain in custody until there is a hearing OR the payer posts an adequate cash performance bond as specified in the bench warrant. [MCL 552.631\(3\)](#); [MCL 552.632\(1\)](#). **The hearing on the merits of the bench warrant must be held within 21 days of the arrest OR within 48 hours (excluding weekends and holidays) if the payer cannot post the cash performance bond in the amount stated in the bench warrant.** See [MCL 552.632\(1\)](#); [MCR 3.221\(B\)](#).

If a payer did NOT post bond and the hearing on the merits of the bench warrant cannot be heard within 21 days of the date of the arrest, the court MUST without unnecessary delay hold a bond review hearing. For a checklist on a bond review hearing, see the Michigan Judicial Institute's [Bond Review Hearing Checklist](#).

¹ For a checklist on the issuance of a bench warrant following a payer's failure to appear for a contempt hearing, see the Michigan Judicial Institute's [Contempt for Support Arrearage \(Payer Fails to Appear\) Checklist](#).

² For a checklist on staying a commitment order following a contempt hearing for support arrearage, see the Michigan Judicial Institute's [Altering Commitment Order Checklist](#).

Proceedings to follow for a hearing on the merits of the bench warrant:

- Determine whether notice of the proceedings to another party or receipt of additional evidence is necessary.³ See [MCR 3.221\(B\)](#).
 - If YES, adjourn hearing and release payer on condition that the payer will appear for the hearing. For a checklist on issuing a conditional release, see the Michigan Judicial Institute's *Conditional Release Pending Bench Warrant Hearing Checklist*.
 - If NO, hold hearing.
- If payer FAILS to appear for the hearing and deposited a cash performance bond,
 - order the cash performance bond forfeited and transmit the bond to the FOC or the Michigan State Disbursement Unit (MiSDU) for payment to one or more recipients of support and to the county treasurer. [MCL 552.632\(5\)](#).
 - may issue another bench warrant for the further appearance of the payer. [MCL 552.632\(5\)](#).
- If payer APPEARS for the hearing,
 - And was released on a conditional release, vacate the release order. [MCR 3.221\(J\)\(1\)](#).
 - And deposited a cash performance bond,
 - determine how much of the cash performance bond deposited is to be transmitted to the FOC or the MiSDU for payment to one or more recipients of support and to the county treasurer.⁴ [MCL 552.632\(4\)](#).
 - return any remaining balance to person who posted cash performance bond on payer's behalf. See [MCL 552.632\(4\)](#); [MCR 3.221\(J\)\(1\)](#).
 - discharge anyone who posted bond. See [MCR 3.221\(J\)\(1\)](#).
 - Limit issues considered to payer's answers to the contempt proceedings and, if the payer was found in contempt, to

³ "Failure to hold a hearing within 21 days will not deprive the court of jurisdiction to proceed." [MCR 3.221\(B\)](#).

⁴ The court may require the payer to forfeit all or a portion of money payer deposited to pay support, fines, fees, costs, and sanctions. See [MCR 3.221\(J\)\(1\)](#).

further proceedings related to the payers' contempt. See [MCL 552.632\(1\)](#); [MCL 552.632\(4\)](#).

- May set aside a finding of contempt if, based on the hearing, the payer is in compliance with the court's order or for other good cause shown. [MCL 552.632\(6\)](#).

For court forms related to domestic relations actions, see the One Court of Justice [website](#).

For additional domestic relations resources, see the Friend of the Court Bureau [website](#).

