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CHILD SUPPORT/LICENSE ACTIONS

House Bill 5384

Sponsor: Rep. Lyn Banks

House Bill 5385

Sponsor: Rep. Sharon Gire

House Bill 5386

Sponsor: Rep. Michelle McManus

House Bill 5387

Sponsor: Rep. Mike Green

House Bill 5388

Sponsor: Rep. Sandra Hill

House Bill 5389

Sponsor: Rep. Eric Bush

Committee: Human Services

Complete to 11-8-95

A SUMMARY OF HOUSE BILLS 5384-5389 AS INTRODUCED 11-8-95

The bills would provide for the suspension of a professional, occupational, or driver's license for failure to pay a support arrearage or failure to comply with court ordered visitation. ("Support" often means child support, but can include alimony.) The friend of the court could, but would not have to, seek a license sanction if income withholding was not available or had proved unsuccessful, or if application of a makeup visitation schedule was ineffective in resolving a visitation dispute. The party whose license was to be suspended would have an opportunity for a hearing and to agree to a payment schedule (assuming the court decided the payer had the resources) or makeup visitation schedule (assuming the parent demonstrates a good faith effort to comply with the visitation schedule) before the court ordered the licensing agency to suspend the license. The court could condition a license on compliance with a payment or makeup visitation schedule. A suspension order would be rescinded immediately (and the appropriate agency notified within seven business days) after the individual agreed to a payment or makeup visitation schedule. A more detailed explanation follows.

House Bill 5384 and House Bill 5388 would both amend the Support and Visitation Enforcement Act (MCL 552.602 et al.) to authorize the friend of the court to institute a license suspension action under certain circumstances, and to authorize the court to issue a suspension order. The two bills are identical in most respects; however, House Bill 5388 would allow for the suspension of a driver's license, while House Bill 5384 would allow for the suspension of an occupational or professional license. An occupational license would include any license issued

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by a state agency with regulatory authority over that occupation that allows an individual to legally engage in a regulated occupation or any license that allows the individual to use a specific title in the practice of an occupation, profession, or vocation.

Commencing with new support cases, every support order would have to require both the payer and the payee to inform the friend of the court as to whether he or she had an occupational or professional license (under House Bill 5384) or a driver's or chauffeurs license (under House Bill 5388). Also, a payer or payee would have to immediately notify the friend of the court of any change in his or her license status.

The friend of the court would be able to initiate an action to suspend the license of either: a) the payer of support under a court order if there was a support arrearage, an order of income withholding either was not available or had not been successful, and the payer held a license subject to suspension under one of the bills, or b) the custodial parent, if the court determined that the use of makeup visitation had not been successful in resolving a visitation dispute and that the custodial parent had a license subject to revocation under either bill.

Suspension of a license for failure to pay support. If the friend of the court found grounds to initiate an action to suspend a payer's license, it would be required to notify the payer that it intended to order the suspension of his or her license for failure to comply with the support order.

The notice issued by the friend of the court would have to inform the payer of the amount of the arrearage and that his or her license could be suspended as a result of his or her failure to pay the arrearage. The friend of the court would have to notify the payer that he or she could demand a hearing and that the order to suspend his or her license would be entered and sent to the appropriate agency unless the payer either paid the arrearage or, within 21 days of the date of the notice, requested a hearing.

The notice would also have to indicate that if the payer believed the support order should be modified due to a change of circumstances, he or she could file a petition with the court for a modification of the support order. In addition, the notice would have to inform the payer of his or her options at the hearing: that the payer could object to the proposed suspension based on mistaken identity or on a mistake of fact as to the amount of support owed, or that the payer could offer a schedule for paying off the arrearage.

If the payer requested a hearing, the court would have to hold the hearing within 30 days after the payer's request. The entry of an order suspending the payer's license would be delayed pending the outcome of the hearing. If the court felt it were necessary, it could, on its own initiative, consolidate a hearing on the suspension of a license under House Bill 5384 or House Bill 5388 with a hearing on a petition for modification of support.

The court would be required to order the suspension of a payer's license where the payer failed to respond to the notice within 21 days, or where, following a hearing, the court determined that the payer was able to pay at least part of the support arrearage and had failed to do so. If the court determined at the hearing that an arrearage existed and the payer could have paid all of some of the amount due, the court would be required to order the payment of the

arrearage in one or more payments of a specified amount. The suspension order would provide for a license to be suspended within seven days after the order was issued. The friend of the court would have to notify either the secretary of state (under House Bill 5388) or the appropriate occupational regulatory agency (under House Bill 5384) of the suspension order. If the payer agreed to a payment schedule to pay off the arrearage, the court would rescind the suspension order, effective immediately. The friend of the court would then be required to notify the appropriate licensing agency within seven business days.

Failure to allow court-ordered visitation or makeup visitation. If the court determined that the use of makeup visitation had not been successful in resolving a custody dispute and that the custodial parent had a license which was subject to suspension under either House Bill 5384 or 5388, the court could condition the custodial parent's retention of the parent's license upon compliance with the court's order for makeup and ongoing visitation. If the custodial parent failed to comply with the court's makeup visitation schedule, the court would find the custodial parent in contempt and could order the suspension of his or her license in the same fashion as it would with a payer who had failed to pay his or her arrearage.

After a suspension order had been entered, the court could order a makeup visitation schedule, provided the parent demonstrated a good faith effort to comply with the schedule. The court, if it ordered makeup visitation, would have to rescind the suspension order in the same fashion as it would rescind a similar order stemming from a failure to pay support. Within seven business days, the friend of the court would have to inform the appropriate licensing agency of the order rescinding the suspension of the parent's license.

House Bill 5384 would not prevent a "source of income" (generally, an employer) from using a suspension under the bill as a basis for discharging or refusing to employ a person whose license had been suspended under the bill where the suspended license was a necessary predicate to the employment.

House Bill 5384 is tie-barred to House Bills 5385, 5386, and 5387. House Bill 5388 is tie-barred to House Bill 5389.

House Bill 5385 would create the Regulated Occupation Support Enforcement Act, which would require regulatory agencies of the state of Michigan to suspend licenses in accordance with House Bill 5384. The act would apply to certificates, registrations, and licenses issued by a state agency that allow an individual to engage in a regulated occupation or allow an individual to use a specific title in the practice of an occupation, profession, or vocation.

Unless notified that the suspension order had been rescinded, an occupational regulatory agency would have to suspend the individual's license within seven business days after receiving a suspension order. If a suspension order was rescinded under House Bill 5384, the agency would have to reinstate a license and the reinstatement would be effective upon its entry by the court and the payment of any reinstatement fees required by the occupational regulatory agency. The agency would be required to reinstate the occupational license within seven business days after receipt of the rescission order and the individual's payment of any reinstatement fee required by regulatory agency. The agency would have to notify the licensee of the reinstatement within

seven business days after learning that the suspension order had been rescinded. House Bill 5385 is tie-barred to House Bills 5384 and 5386.

Under the Administrative Procedures Act, regulatory agencies are required to give licensees facing license sanctions the opportunity to show compliance with all lawful requirements for the license. House Bill 5386 would amend the act to exempt suspensions under the Regulated Occupation Support Enforcement Act (House Bill 5385) and those under the Support and Visitation Enforcement Act (as amended by House Bill 5384) from application of that provision of the Administrative Procedures Act (MCL 24.292). The bill is tie-barred to House Bills 5385 and 5384.

House Bill 5387 would amend the Revised Judicature Act (MCL 600.909) to specify that a license to practice law in Michigan would be also be subject to suspension under the provisions of the Support and Visitation Enforcement Act (to be amended by House Bill 5384) and the Regulated Occupation Support Enforcement Act (which would be created by House Bill 5385). The bill would not take effect unless House Bills 5384, 5385 and 5386 were also enacted.

House Bill 5389 would add a section to the Michigan Vehicle Code to require the secretary of state to comply with a driver's license suspension order issued under the Support and Visitation Enforcement Act by suspending the licensee's operator's or chauffeur's license within seven business days after the receipt of the suspension order. An order rescinding an order suspending a license would be effective upon its entry by the court and the licensee's payment of a \$125 license reinstatement fee. The bill would require the secretary of state to reinstate the licensee's license within seven days of the receipt of an order rescinding the suspension and the payment of the required reinstatement fee. Such fees would have to be deposited in the state general fund and would be required to be used to cover the secretary of state's expenses in processing the suspension and reinstatement of driver's licenses revoked under the bill.