



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 585 (Substitute S-2 as passed by the Senate)
 Senate Bill 732 (as passed by the Senate)
 Sponsor: Senator Robert Geake (Senate Bill 585)
 Senator Michael J. Bouchard (Senate Bill 732)
 Committee: Families, Mental Health and Human Services

Date Completed: 3-25-96

RATIONALE

Created in 1919, Michigan's Friend of the Court (FOC) system is responsible for investigating and making recommendations with respect to custody, visitation (parenting time), and support in domestic relations matters; monitoring compliance with court orders; and enforcing the orders in case of violation. After a support order is entered in a domestic relations matter (except as otherwise provided in the order or judgment), the FOC office is required to receive all payments of support; at least once a month record the support payments due, paid, and past due; and disburse all support payments to the recipient of support. Many people believe that FOC offices are not adequately performing their statutory duties, or are not responsive to the needs of the clients they serve. In particular, there have been a number of complaints about gender bias among FOC employees, and there is a perception that FOC offices do not diligently pursue the enforcement of parenting time rights. In addition, both payers and payees have complained that the FOC system of disbursing child support payments is slow and inefficient.

CONTENT

Senate Bill 585 (S-2) would amend the Friend of the Court Act to specify additional duties of the FOC, including compiling data on complaints regarding support and visitation, disbursing support payments within 14 days, and meeting with a party during an investigation.

Senate Bill 732 would amend the Friend of the Court Act to require the Office of the Friend of the Court, in receiving and disbursing support

payments, to use electronic funds transfer (EFT) by January 1, 1997.

Senate Bill 585 (S-2), which would take effect on June 1, 1996, is described in more detail below.

The bill would require each local office of the Friend of the Court to compile data on the number and type of complaints regarding support and visitation. The data would have to include, but not be limited to, the number of cases in which a party failed to appear at a show cause hearing and the number of cases in which a bench warrant was issued for failure to appear. The data would have to be transmitted at least annually in a report to the Office of the State Court Administrator. The following specific information also would have to be compiled:

- The number of State or Federal income tax intercepts subsequently found to be based on inaccurate information or employee error.
- The number of support orders modified due to inaccurate information or employee error.
- The number of grievances filed in a calendar year, the nature of each grievance, the judicial response to each grievance, and any sanction imposed as a result of each grievance.
- The number of custody recommendations recommending physical custody to the mother, the father, or a third party.
- The number of make-up parenting time petitions filed, the number of hearings held on such petitions, the number of instances make-up parenting time was ordered, and the amount of such time that was ordered.

Currently, after a support order is entered in a domestic relations matter, the FOC office must receive all payments of support orders and disburse them to the recipient of support. The bill would require that the FOC make this disbursement within 14 days after the office received each payment.

The FOC Act requires each Friend of the Court to take all necessary steps to adopt office procedures to implement the Act, Supreme Court rules, and recommendations of the FOC Bureau. The bill also specifies that Office of the Friend of the Court duties would have to be performed in accordance with the Elliott-Larsen Civil Rights Act.

Currently, before the adjudication of a domestic relations matter, the FOC office must give an informational pamphlet to each party to the matter. The bill would require this pamphlet to include notification that each party to the dispute had the right to meet with the individual investigating the dispute before he or she made a recommendation regarding the dispute.

The Act requires the FOC to investigate all relevant facts regarding child custody or visitation if there is a custody or visitation dispute and domestic relations mediation is refused by either party or is unsuccessful, or if ordered to do so by the court. The FOC also must investigate regarding child support if ordered to do so by the court. The bill provides that an investigation would have to include a meeting with a party, if requested by the party. If a party who requested a meeting during an investigation failed to attend the scheduled meeting without good cause, the investigation could be completed without a meeting with that party.

MCL 552.503 et al. (S.B. 585)
552.509 (S.B. 732)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Senate Bill 585 (S-2) would address various concerns about the Friend of the Court system. In particular, the bill aims to remove gender bias within FOC offices by requiring FOC duties to be performed in accordance with the Elliott-Larsen

Civil Rights Act, which prohibits public agencies from discriminating in the provision of services because of sex, marital status, religion, race, color, or national origin. Also, many people reportedly experience financial difficulty because of long delays in receiving support payments, even though a payer might be subject to income withholding or has paid support on time to the FOC. The bill would ensure that the FOC disbursed support payments promptly, by putting a two-week deadline on this responsibility. In addition, requiring an FOC investigation to include a meeting with a party, upon request, would give individuals an opportunity to share relevant information with the FOC, which could have an impact on the office's recommendations. A party could not delay an investigation simply by requesting a meeting and not showing up, however, since an investigation could be completed without a meeting if the requesting party failed to attend without good cause. By requiring each FOC office to compile data on the number and type of complaints regarding support and parenting time, the bill would enable policy-makers to identify problem areas and make the appropriate changes, and would enable the FOC to make its own improvements. While there has been considerable anecdotal testimony about problems within the FOC system, the State does not have a data base of instances of late payments, inattention to parenting time rights, or other grievances. The bill would generate the needed information.

Response: As a public agency, the FOC already is subject to the Elliott-Larsen Civil Rights Act. Perhaps FOC staff should be trained to recognize and avoid gender bias problems. In regard to meeting with a party in child support matters, there may be little or nothing for an investigator to discuss since the FOC is required by statute to use a child support formula. A hearing before the court--to which parties already are entitled--might be more likely to resolve individual concerns.

Supporting Argument

By requiring the FOC to use electronic funds transfer in receiving and disbursing support payments, Senate Bill 732 would help address concerns about slow payments. This requirement would be consistent with efforts the State already is making to implement a Statewide child support enforcement system, as mandated by Federal law.

Legislative Analyst: S. Margules

FISCAL IMPACT

Senate Bill 585 (S-2)

Currently the FOC has 30 days in which to process support payments. Under this bill, payments would have to be disbursed within 14 days. The impact on the FOC of this change would be minimal. Currently, approximately 10% of the support payments are not disbursed in a timely manner and this number is expected to decrease with the ongoing implementation of the Child Support Enforcement System (CSES).

Senate Bill 732

There would be no fiscal impact on State and local governments under this bill. Most counties will have EFT capabilities as part of the CSES that currently is being implemented.

Fiscal Analyst: M. Bain

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.