This revised analysis replaces the analysis dated 3-5-98.

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CHILD SUPPORT REVISIONS; COMPLY WITH FEDERAL LAW

Senate Bill 790 and 802 (Substitutes H-1)
Senate Bill 804 (Substitute H-2)
Sponsor: Sen. Joel D.Gougeon

Senate Bill 793 as passed by the Senate
Senate Bills 797, 799, and 800 (Substitutes H-2)
Senate Bill 801 (Substitute H-1)
Sponsor: Sen. Robert Geake

Senate Bill 794 (Substitute H-2)
Senate Bill 795 as passed by the Senate
Sponsor: Sen. Virgil C. Smith

Senate Bill 796 (Substitute H-1)
Sponsor: Sen. Joe Conroy

Senate Bill 798 (Substitute H-2)
Sponsor: Sen. Dale L. Shugars

Senate Bill 803 (Substitute H-2)
Sponsor: Sen. Gary Peters

Senate Committee: Families, Mental Health and Children
House Committee: Human Services and Children

Revised First Analysis (3-17-98)

THE APPARENT PROBLEM:

In 1996, Congress enacted new laws, including the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, or PRWORA (*42 USC 1305 et al, Public Law 104-193*), designed to set new, uniform, child support laws in motion, reduce federal spending, and balance the federal budget. As a result, many entitlement programs were consolidated into a series of block grants to the states, and welfare and child support programs were altered. For example, the Temporary Assistance to Needy Families (TANF) program replaced the Aid to Families with Dependent Children (AFDC) program. However, in order to receive block grants for

such programs, states must adopt or modify child support enforcement plans that comply with federal law. According to an April 28, 1997, memo from the U.S. Department of Health and Human Services to all state agencies that administer child support enforcement plans under Title IV-D of the Social Security Act, Title III of PRWORA requires that states either establish new, or modify existing, procedures to conform to the 1996 act. According to the memo, if a state "IV-D Plan" did not conform, all federal payments for the state's child support enforcement program would be suspended.

Under these provisions, Michigan stands to lose two sources of federal funding: Temporary Assistance to Needy Families (TANF) block grant funds, for which Michigan received $775 million for the 1997-1998 fiscal year; and Title IV child support funds, for which Michigan received $119 million for the 1997-1998 fiscal year. The Family Independence Agency (FIA), which administers the state's child support enforcement plans, estimates that the state will receive a total of $954 million in block grant funds for the 1998-99 fiscal year, and is anxious that Michigan's current laws be amended to bring the state into "IV-D Plan compliance." As a result, a bipartisan work group has debated the issues for several weeks and has introduced legislation to bring the state into compliance with the federal requirements.

THE CONTENT OF THE BILLS:

Senate Bills 790 and 793 through 804 would amend various acts in regard to responsibilities of the friend of the court; interstate collection of support; access to the law enforcement information network (LEIN); inclusion of Social Security numbers on applications for driver's licenses, occupational licenses, and marriage licenses; suspension of recreational or sporting licenses for noncompliance with a support or parenting time order; admission of certain expenses in paternity proceedings; information contained on support orders; grounds for a hearing on income withholding; liens against property for unpaid support; sanctions for failure to pay support; responsibilities of the Office of Child Support; and development of a data matching system to identify assets of individuals liable for support. (The bills are said to bring the acts that would be amended into compliance with Title III of the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which deals with child support.)

Senate Bill 790 would amend the Friend of the Court Act (MCL 552.502 et al.) to authorize the friend of the court (FOC) to issue subpoenas, include court proceedings arising out of the Uniform Interstate Family Support Act in the FOC act's definition of "domestic relations matter", and replace references to a custodial parent and an absent parent with references to a parent.

The FOC or his or her designee could issue an administrative subpoena to require a public or private entity doing business in Michigan to furnish current employment information in the entity's possession that pertained to a parent and that was needed to establish, modify, or enforce a support order. The officers or employees of the entity would have to furnish the information within 15 days after the entity received the subpoena. "Current employment" information would refer to employment within one year of the FOC's request.

In the case of disobedience of an FOC request or subpoena for information, the FOC or his or her designee could petition the circuit court in the county in which the inquiry was made to require the production of books, papers, and documents. Any circuit court could, in the case of refusal to obey a subpoena or request for information, issue an order requiring the person or other entity to appear and to produce books, records, and papers if so ordered. Failure to obey the court order would be punishable by the court as contempt.

An employer, former employer, or other entity would not be liable under federal or state law to a person or governmental entity for a disclosure of information to the FOC or for any other action taken by the employer, former employer, or other entity in good faith to comply with information disclosure provisions of the act and the subpoena provisions of the bill.

Upon request of a child support agency of another state, the office would have to initiate and carry out proceedings to enforce the other state's support orders, without the need to register the order as a domestic relations matter in this state. The order would be enforced using automated administrative enforcement actions authorized under the Support and Parenting Time Enforcement Act.

Further, the bill would require the State Friend of the Court Bureau to modify its child support formula to include guidelines for setting and administratively adjusting the amount of periodic payments for overdue support, including guidelines for adjustment of arrearage payment schedules when the current support obligation for a child terminates and the payer owes overdue support. The bill would also require the office to use these guidelines to administratively adjust arrearage payment schedules. The bill would also require that, when making an administrative adjustment, the office would have to follow procedures that afforded the payer due process, including, at least, notice, an opportunity for an administrative hearing, and an opportunity for an appeal on the record to an independent administrative or judicial tribunal.

Senate Bill 793 would amend the Uniform Interstate Family Support Act (MCL 552.1103 et al.) to provide new procedures for determining which order of a "tribunal" of this or another state would control, when there were more than one order. (Under the act, "tribunal" means "a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or determine parentage".)

The bill specifies that, if a responding state had not enacted the Uniform Interstate Family Support Act or a substantially similar law, a Michigan tribunal could issue a certificate or other document and make findings required by the law of the responding state. If the responding state were a foreign jurisdiction, the tribunal could specify the amount of support sought and provide other documents necessary to satisfy the responding state's requirements.

Except as otherwise provided, the bill would require an employer who received an income withholding order issued by another state to withhold and distribute funds as directed in the order, by complying with the terms specified in the order as to the duration and amount; the entity designated to receive payments; medical support; the amount of periodic fees and costs for support enforcement; and the amount of periodic payments of arrearage and interest on arrearage. (The employer would have to comply with the laws of the state of the obligor's principal place of employment as to the employer's processing fee, the maximum amount allowed to be withheld, and the time within which the employer must implement withholding and forward the payments.)

The bill provides that an employer who complied with an out-of-state income withholding order would not be subject to civil liability for withholding child support from the obligor's income. An employer who willfully failed to comply with an out-of-state income withholding order would be subject to the same penalties that would apply for noncompliance with a Michigan order.

The bill also would allow an obligor to contest the validity or enforcement of an out-of-state income withholding order in the same manner as if the order had been issued by a Michigan tribunal.

The bill would delete requirements that various notices be provided specifically by first-class mail.

Senate Bill 794 would amend the LEIN Policy Council Act (MCL 28.214) to require that the policy and rules established by the Law Enforcement Information Network (LEIN) policy council ensure access to information contained in the LEIN by state and federal agencies for enforcement of child support programs, as provided under state and federal law. Further, the bill would prohibit a person from intentionally disclosing information from the LEIN in a manner not authorized by law or rule. A violation of this prohibition would be a misdemeanor, punishable by imprisonment for up to 90 days, a fine of up to $500, or both. A second or subsequent violation would be a felony, punishable by imprisonment for up to four years, a fine of up to $2,000, or both.

Senate Bill 795 would amend the Michigan Vehicle Code (MCL 257.221) to require that the secretary of state's record of applications for registration of motor vehicles be available to state and federal agencies as provided under Senate Bill 794. (The code requires that the secretary of state create and maintain a computerized central file of all applications for registration of motor vehicles, and that the computerized central file be interfaced with the LEIN. The records must be preserved for three years after the date of registration.)

Senate Bill 796 would amend the Michigan Vehicle Code (MCL 257.307) to require that all applications for an operator's or chauffeur's license include the applicant's eye color and Social Security number, as well as other identifying information, to the extent required to comply with federal law.

Currently, an application for an operator's or chauffeur's license requires the applicant's full name, date of birth, address of residence, height, sex, eye color, and signature; an application for an operator's or chauffeur's license with a vehicle group designation or indorsement, however, does not require the applicant's eye color and does require his or her Social Security number. Under the bill, all applications for an operator's or chauffeur's license would require all of that identifying information, including the person's eye color and Social Security number.

The bill would also specify that the secretary of state could not disclose a Social Security number, except for use for one or more of the following purposes:

• To comply with the federal Commercial Motor Vehicle Safety Act of 1986 (Tile XII of Public Law 99-570, 100 Stat. 3207-170), and regulations and state law related to that act.

• To carry out the purposes of Section 466(a) of Part D of Title IV of the federal Social Security Act (42 USC 666) through the LEIN network, in connection with matters relating to paternity, child support, or overdue child support.

• As otherwise required by law.

Senate Bill 797 would amend the Regulated Occupation Support Enforcement Act (MCL 338.3434a) to provide that, in order to facilitate the act's enforcement and administration, as required by federal law, an occupational regulatory agency would have to require each applicant for a license or renewal of a license to include his or her Social Security number on the application. An occupational regulatory agency could not issue or renew a license unless the applicant included his or her Social Security number on the application.

Senate Bill 798 would amend the Public Health Code (MCL 333.2813 et al.) to specify in the title of the act that it would provide for the implementation of federal law; and that forms prescribed by the Department of Community Health would have to conform to requirements for the inclusion of Social Security numbers, as required to comply with federal law. Under the bill, the state registrar would have to require that each applicant for licensure or registration in a health occupation or health profession include his or her Social Security number on the application.

The state registrar also would have to require an applicant for a marriage license or other vital record to include his or her Social Security number on the application, and require the Social Security number of the decedent on each death registration.

In addition, the bill would require that the Department of Community Health, upon request, provide to an unmarried mother of a child or to a putative father an acknowledgment of parentage form that could be completed by the child's mother and father to acknowledge paternity, as provided in the Acknowledgment of Parentage Act. The department also would have to provide to the mother and putative father information on the purpose and completion of the form and on the rights and responsibilities of parents. (The code requires that the department distribute to hospitals, free of charge, the acknowledgment of parentage form and the information on the form's purpose and completion and on parents' rights and responsibilities.)

Senate Bill 799 would amend Public Act 128 of 1887 (MCL 551.102), which requires a civil license in order to marry, to require that the blank application forms -- in the form of an affidavit of the parties' competence to marry -- that must be filed by an applicant for a marriage license provide spaces to allow identifying information on the parties to be entered, and contain a space for each applicant's Social Security number, as required to comply with federal law. The act requires that the affidavit, together with the license, be transmitted to the Department of Community Health. The bill would require, instead, that it be transmitted to the state registrar. (The act also requires that the state registrar appointed by the director of the Department of Community Health furnish the forms and registration books to county clerks; the forms must provide spaces for items prescribed in rules promulgated by the director. The bill would delete the reference to registration books.)

Senate Bill 800 would amend the Natural Resources and Environmental Protection Act (MCL 324.43559 and 324.81116a) to require that the Department of Natural Resources (DNR) comply with an order for suspension issued under the Support and Parenting Time Enforcement Act (as it would be amended by Senate Bill 803) within seven business days after receiving the suspension order. An order rescinding a suspension order issued under the Support and Parenting Time Enforcement Act would be effective upon its entry by the court and the licensee's purchase of another license.

Senate Bill 801 would amend the Paternity Act (MCL 722.712 et al.) to require the court to admit in a paternity proceeding bills for funeral expenses, expenses of the mother's confinement, or expenses connected with the mother's pregnancy. The bills for these expenses would constitute *prima facie* evidence of the amount of those expenses without third party foundation testimony. (The act specifies that the parents are liable for the child's funeral expenses and that the father is liable to pay the expenses of the mother's confinement and expenses in connection with her pregnancy, as the court in its discretion considers proper.)

In addition, the bill specifies that if the Family Independence Agency (FIA) paid for the costs of genetic testing, the court could order repayment by the alleged father if it declared paternity. Documentation of the genetic testing expenses would constitute *prima facie* evidence of those expenses without third party foundation testimony.

The bill would also specify that the agency could file and serve the mother and the alleged father with a notice requiring that they and the child appear for genetic paternity testing (which, under the act, includes DNA profiling), if, after service of process, the parties failed to consent to an order naming the man as the child's father within the time permitted for a responsive pleading. Further, if the mother, alleged father, or child did not appear for genetic paternity testing, then the agency could apply for a court order to compel paternity tests, or could seek other relief, as permitted by statute or court rule.

Further, the bill would delete a provision of the act that allows the judge in a paternity proceeding to make a judgment a lien upon the defendant's real property. The bill also would delete a provision allowing either party in a paternity proceeding to demand a jury trial.

Senate Bill 802 would amend the divorce act (MCL 552.27) to specify that, if alimony or an education allowance for the children were awarded to either party in a divorce, the amount of the alimony or allowance would be a lien on the personal and real property of the adverse party as provided in the Support and Parenting Time Enforcement Act (pursuant to Senate Bill 803). Currently, those amounts constitute a lien "as the court by its judgment shall direct". That language would be deleted.

Senate Bill 803 would amend the Support and Parenting Time Enforcement Act (MCL 552.602 et al.) to require that every support order include the name, address, and telephone number of a party's source of income and a requirement that both the payer and payee inform the FOC of his or her Social Security number and driver's license number. In addition, the act requires that a support order include a requirement that the payer and payee keep the FOC informed if he or she holds an occupational license or driver's license; the bill would include in that provision a recreational or sporting license and apply various license sanctions to recreational and sporting licenses in addition to occupational and driver's licenses. The bill would also replace references to an "order" of income withholding with references to a "notice" of income withholding.

Currently, under the act, the FOC may petition the court for an order to suspend the occupational license of a parent whose child support payments are more than three months in arrears. The bill would include a suspension of a recreational license or sporting license, or any combination thereof, under this provision, and would specify that the provision applied to child support payments owed for more than six months. The six-month provision would also replace the current three-month provision in sanctions where a court finds a payer in contempt for being in arrears and having the capacity to pay out of currently available resources; or where the court found that a payer was in arrears and the court was satisfied that he or she could have paid all or some portion of the amount due, but failed or refused to do so.

The bill provides that, in addition to current sanctions, if a court found a payer in contempt of court for being in arrears and having the capacity to pay out of currently available resources, the court could order the payer to participate in a "work activity" (as defined in the bill) and could order the suspension of the payer's recreational or sporting license. (Current applicable sanctions include commitment to county jail, with or without work release privileges; commitment of the payer to another penal or correctional facility that is not operated by the Department of Corrections; and suspension of an occupational or driver's license.)

The bill would allow a payer who received notice of income withholding due to reaching a fixed arrearage amount to request a hearing only on ground that the withholding was not proper because of a mistake of fact concerning the amount of current or overdue support or the identity of the payer. (Currently, a payer may request a hearing on the "issue of whether the order of income withholding should take effect, in which case the order of income withholding shall be delayed pending the outcome of the hearing"; that provision would be deleted.)

The bill also would allow a court to fine a source of income when it found that source of income in contempt for failure to comply with a notice of income withholding for a support arrearage or failure to pay withheld amounts to the FOC; and would include orders of dependent health care coverage in various provisions pertaining to withholding of support payments by a payer's source of income.

The bill would require that, if a support arrearage accrued and there was reason to believe that the payer transferred real or personal property without fair consideration, the FOC initiate proceedings to have the transfer set aside as provided in the Uniform Fraudulent Conveyance Act or obtain a settlement in the form of full payment of the arrearage or in periodic repayments, as was possible in the best interest of the support recipient.

The bill specifies that an amount of past due support would constitute a lien against the real and personal property of a payer, in favor of the support recipient; however, financial assets pledged to a financial institution as collateral or assets to which a financial institution has a right of set off or other lien would be excluded. The lien would be effective at the time that support was due and unpaid and continue until the amount of past due support was paid in full or the lien was released by the support enforcement agency. Liens that arose in other states would have to be accorded full faith and credit if the requirements of the act were met.

The bill would specify that the FOC could perfect a lien when arrearage accrued in an amount greater than the amount of periodic support payments payable for one year under the payer's support order. Before a lien was perfected, in a case where a support order had been issued before the effective date of the bill, the FOC would have to notify each payer of support subject to a support order of the imposition of liens by operation of law and that the payer's real and personal property could be encumbered or seized if an arrearage accrued in an amount greater than one year's periodic support payments. The FOC also would have to notify a payer when it perfected a lien against his or her real property for reaching the one-year arrearage amount. If a payer failed, within 21 days, to request a review on the lien and proposed action, to appear for a review, or to establish a mistake of fact, the FOC could collect the arrearage by levy upon the payer's property, including an account at a financial institution. The bill specifies that a lien created under it would be subordinate to any prior perfected lien. Further, a payer could request that the lien be terminated when he or she was no longer in arrears.

Senate Bill 804 would amend the Office of Child Support Act (MCL 400.231 et al.) to expand the office's

responsibilities and provide for the collection of information from financial institutions and other entities.

One of the office's responsibilities under the act is to assist any governmental agency or department in locating an absent parent. Under the bill, that provision would require the office to assist any governmental agency or department in locating a parent to establish parentage; establish, set the amount of, modify, or enforce support obligations; disburse support receipts; or make or enforce child custody or parenting time orders. The bill would also delete the current definition of "absent parent," and would, refer, instead, to an "adult responsible for the child," who would be defined to mean a parent, relative who has or had custody of the child, putative father, or current or former guardian of the child, including an emancipated or adult child.

The act also requires the office to develop guidelines for coordinating activities of any governmental department, board, commission, bureau, or agency in providing information necessary for the location of an adult responsible for the child. The bill would include in that provision a governmental council or any public or private agency.

The bill also would require the office to develop and implement in cooperation with financial institutions and pursuant to law a data matching and lien and levy system to identify the assets of and to facilitate the collection of support from the assets of individuals who had an account at a financial institution and who were obligated to pay support. The office would enter into an agreement with financial institutions doing business in the state to collect the name, address, Social Security number, and account numbers for each noncustodial parent who maintained an account and who owed past due child support. (In the alternative, a financial institution could choose to submit to the office or to the federal government or its designee, once per year, a list of all its account holders, in accordance with data matching processes the federal government would establish under Part D of Title IV of the Social Security Act.) The office could request this information about a list of persons not more than once per quarter from each financial institution. The bill contains technical specifications for sharing such information between financial institutions and the office. A financial institution could not disclose to an account holder that his or her name had been furnished to the office. The bill says that a financial institution would not be liable to an individual or to the office for an error or omission made in good faith compliance with the bill.

The office would have to remove an individual's name and Social Security number from a request to a financial institution if the name or Social Security number had been on the requests to the institution in the two immediately

preceding quarters and the institution had not found a match for either request. However, the office could include the individual's name and Social Security number on a request in the succeeding quarter if it believed that the individual had opened an account subsequent to the two successive quarters in which a match had not been found.

The bill would also require that all requests made by the office for the name, address, Social Security number, and account numbers for persons who maintained an account and who owed past due child support would have to be in machine readable form unless the financial institution expressly asked for the request to be submitted in writing. With the exception of reports that contained a list of all the institution's account holders, or reports furnished the federal government, the same provision would apply to information furnished the office by a financial institution.

A financial institution would not be obligated to freeze a person's account until served with a subpoena or other legal order to do. Further, if an institution surrendered assets to the friend of the court, it would be discharged from any obligation to the depositor, and furthermore, could assess the account holder a service charge of up to 10 percent. The bill would not prohibit a financial institution from doing any other activities with regard to maintaining accounts, such as assessing service fees, charging back deposits, setting off debts to the institution from the account, and so forth.

Currently, the act requires governmental agencies to provide information to the office for purpose of implementing the act. The bill would amend this provision to also require "a public or private entity or a financial institution" to provide such information upon request of the office or of the state agency of another state that administers a similar program. Information and records would include, but would not be limited to, all of the following:

--Information on the current employment (within one year of the request), compensation, and benefits of any individual employed as a current or former employee or an independent contractor of any entity, including for-profit, nonprofit, and governmental employers.

--Records of state and local government agencies, including vital statistics; state and local tax and revenue recording including information on residence address, employer, income, and assets; records on real and titled personal property; records of occupational, professional, recreational, or sporting licenses; records on the ownership and control of corporations, partnerships, and other business entities; employment security agency records; records of agencies administering public assistance programs; records of motor vehicles;

corrections records; and records of workers' compensation.

--Records contained in the law enforcement information network (LEIN).

--Records of financial institutions.

--Records of public utilities and cable television companies.

The director of the Office of Child Support or the director's designee could issue an administrative subpoena to require an entity to furnish any information or record in its possession that pertained to a parent and was demanded by the office for administering or providing services under Part D of Title IV of the Social Security Act. The officers or employees of the entity would have to furnish the information or record within 15 days after the entity received the subpoena. An entity would not be liable to any person for any disclosure of information under the bill or for any other action taken in good faith to comply with the bill.

If an entity did not comply with a subpoena or request for information or records, the director or his or her designee could petition the circuit court to require the production of books, papers, and documents. Any circuit court in the state could issue an order requiring compliance. Failure to comply would be punishable as contempt.

The act specifies that information obtained by the office is available only to a governmental department, board, commission, bureau, agency, or political subdivision of any state for purposes of administering, enforcing, and complying with the state and federal laws governing child support. The bill would delete "only" from that provision and include a court of competent jurisdiction and the federal government among the entities to which the information is available.

The bill specifies that a governmental department, board, commission, bureau, agency, or council or any public or private entity or financial institution could disclose only information or records necessary to enforce an obligation to pay support, and would not be liable for a wrongful disclosure of information when acting in good faith. However, these entities would be liable for a "negligent wrongful" disclosure of information for actual damages incurred or $1,000, whichever was greater. For a "willful wrongful" disclosure, an entity would be liable for three times actual damages or $3,000, whichever was greater, together with all costs and reasonable attorney fees.

The bill would prohibit the office from releasing information on the address or other information concerning an adult responsible for a child to another adult responsible for the child if it were prohibited by court order, or if the office had reason to believe that the release could result in physical or emotional harm to that adult or to the child. The office would also have to notify the federal government, and courts and agents of courts, about domestic violence or child abuse under Part D of Title IV of the Social Security Act.

Tie-bars. Senate Bills 794 and 795 are tie-barred to one another. Senate Bills 790, 801, and 802 are tie-barred to Senate Bill 803. Senate Bills 800 and 803 are tie-barred to one another; Senate Bill 800 is also tie-barred to Senate Bill 804.

HOUSE COMMITTEE ACTION:

The House Human Services and Children Committee adopted substitutes for several of the bills, as follows:

Senate Bill 790. The House substitute bill includes a provision to afford due process to a payer whose arrearage payment schedule was adjusted, and tie-bars the bill to Senate Bill 803.

Senate Bills 796, 797, 798 and 799. The House substitute bills added language requiring that Social Security numbers be included on certain application forms "to the extent required to comply with federal law." The House substitute for Senate Bill 796 also prohibits the secretary of state from disclosing Social Security numbers except when necessary to comply with federal or other laws. The House substitute for Senate Bill 798 also deleted a provision in the Senate-passed version which specified that execution of an acknowledgment of parentage established a child's legal paternity. The House substitute for Senate Bill 799 requires that an application for a marriage license in the form of an affidavit must be transmitted to the state registrar, rather than the Department of Community Health.

Senate Bill 800. The House substitute made a technical amendment to the Senate-passed version, and tie-barred the bill to Senate Bills 803 and 804.

Senate Bill 801. The House substitute bill added language to specify that bills presented as evidence of expenses in a paternity proceeding would constitute *prima facie* evidence. The House substitute also specified that either funeral expenses, the expenses of a mother's confinement, *or* expenses connected with the pregnancy could be admitted in a paternity proceeding. (The Senate-
version of the bill required that *all* these expenses be submitted.) The House substitute also replaced the Senate-passed version of the bill's limitations on genetic

testing with a provision allowing the FIA to compel the mother and the alleged father of a child to appear for genetic paternity testing, in certain situations, and tie-barred the bill to Senate Bill 803.

Senate Bill 802. The House substitute tie-barred the bill to Senate Bill 803.

Senate Bill 803. The House substitute significantly amended the Senate-passed version of the bill. The House substitute deleted the following provisions from the Senate-passed version:

• The provision requiring parents to inform the FOC about their recreational or sporting licenses.

• The provision that a judge or referee could order the return of withheld income when a payer established at a hearing that it was not proper.

• The provision requiring that the FOC notify *all* payers subject to support orders of the new lien provisions. (Instead, before a lien was perfected, the FOC would have to notify payers whose support orders had been issued before the effective date of the bill. Future child support orders would also include notice of the new lien provisions.)

The House substitute would also extend, from three to six months, the time period for arrearage after which the FOC may order sanctions, and tie-bars Senate Bill 803 to Senate Bill 800.

Senate Bill 804. The House substitute deleted the provision in the Senate-passed version of the bill relating to genetic testing; and deleted the act's definition of "absent parent" and refers, instead, to "an adult responsible for the child," meaning a parent, relative with custody of the child, putative father, or current or former guardian, including an emancipated or adult child. The House substitute also requires that the Office of Child Support remove an individual's name from a financial institution's search list if the institution doesn't find a match within a certain time period.

FISCAL IMPLICATIONS:

Fiscal information is not available. However, the FIA has noted that the state will not be able to receive its block grant payments, totaling $954 million, until the state's child support enforcement laws comply with federal laws. (3-4-98)

ARGUMENTS:

For:

The goal of the new federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), is to provide more ways to track noncustodial parents who are avoiding child support obligations, and to provide uniformity in collection efforts within states and across state lines. The bills are the result of deliberations by a bipartisan work group, which sought to bring the state into "Title IV-D" compliance by changing current law only as much as was necessary to meet federal requirements. The group attempted to maximize due process protections and to minimize intrusive disclosure provisions within the confines of the new federal child support laws. Accordingly, the bills represent the narrowest possible interpretation of these laws, and the least possible amount of intrusive regulations, while, at the same time, granting the Friend of the Court (FOC) broader administrative powers to enforce child support orders.

At the core of the package of bills are those which would target "deadbeat" parents by granting the Office of Child Support and the FOC access to information on a person's financial assets; and which would also allow the FOC to petition to have the person's occupational, driver's, and sporting licenses suspended. The FOC would be able to trace parents by requiring that Social Security numbers be provided to them on certain request forms, as well as drivers' license numbers and information about occupational licenses and recreational and sporting licenses. Financial institutions would have to collect Social Security numbers from certain noncustodial parents. Social Security numbers would also have to be included on drivers' license applications and on applications for occupational licensure or registration. Further, the Office of Child Support would have access to records contained in the law enforcement information network (LEIN), and the bills provide for reciprocal enforcement of support orders by other states. In these ways, various records could be cross-checked to collect information on parents who are obligated to pay child support.

For:

Some counties in Michigan have already experimented with suspending the drivers' licenses of residents who are delinquent in support payments. Gratiot County, for example, recovered more than $5,000 in child support arrearage from suspending the driver's license of one parent, according to a report in *The Saginaw Press*, on December 10, 1997. The principle inherent in this policy is that the state shouldn't bestow a privilege (i.e., a license) on parents who have abdicated their responsibilities toward their children.

Against:

Concerns have been expressed that some of the bills' provisions violate the general public's rights to privacy and due process. It is argued that the bills would grant Orwellian powers to state and federal governmental agencies, and that it is absurd for governmental agencies to keep records of *all* citizens in order to increase collections of child support orders and to find a few more violators. For example, even though "deadbeat" parents compose only a small percentage of the state's population, the provisions of the bills would result in the disclosure of personal information -- including Social Security numbers and financial information -- on virtually all citizens. In addition, the bills would impose new requirements and increase costs for a variety of private and public entities, including employers and financial institutions.

Response:

It must be remembered that the new federal child support laws have evolved because state child support enforcement laws have, for many years, failed in the collection of child support payments. That failure can mainly be attributed to the fact that many parents have avoided complying with current laws by hiding assets, and other means. Unfortunately, some citizens may have to give up some privacy in order to expose the contrivances of would be "deadbeat" parents.

Against:

Various concerns have been raised regarding certain provisions of some bills. For example, Senate Bill 796 would require that applications for an operator's or chauffeur's license include an applicant's Social Security number (as well as other identifying information) to the extent required by federal law. Since federal law does require that Social Security numbers be included on drivers' license applications, this provision of the bill is unnecessary. However, Congress is currently working on legislation that would modify the provision, in which case the bill's provision would be voided.

In addition, concerns have been raised regarding the provision under Senate Bill 790 that would allow the FOC to issue an administrative subpoena requiring that an employer furnish employment information about a parent when it was needed to establish or enforce a support notice. Specifically, the bill would specify that an administrative subpoena could be issued to require "any public or private entity doing business in the state" to furnish employment information. Some have pointed out that, as written, this provision could be interpreted to mean that an attorney or an accountant would have to divulge attorney-client privileged information.

POSITIONS:

The Family Independence Agency supports the bills. (3-3-98)

The Michigan Bankers Association supports the bills. (3-3-98)

The Michigan Friend of the Court Association support the bills. (3-3-98)

The Prosecuting Attorneys Association of Michigan supports the bills. (3-4-98)

The Michigan County Social Services Association (MCSSA) supports the concept of the bills, since they would result in additional child support payments for children. (3-4-98)

The Michigan League for Human Services has no position on the bills. (3-4-98)

Michigan's Children (a child care advocacy group) has no position on the bills. (3-4-98)

The Department of State opposes Senate Bill 796, since it would require that drivers' license applications include the applicant's Social Security number. The department has no position on the other bills. (3-4-98)

Analyst: R. Young

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.