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CENTRALIZATION OF CHILD SUPPORT ENFORCEMENT REMEDIES

House Bill 6008 as enrolled
Public Act 564 of 2002
Third Analysis (10-4-02)

Sponsor: Rep. Doug Hart
House Committee: Family and Children
Services
Senate Committee: Families, Mental
Health, and Human Services

THE APPARENT PROBLEM:

Child support payments are ordered to ensure that the needs of children are adequately provided for even after the child's parents are no longer married. In many instances, child support payments represent a significant portion of a family's income. As such, child support payments contribute greatly toward the self-sufficiency of those families receiving support. The Urban Institute reports that for single-parent families, child support payments represent approximately 16 percent of family income. For children living in poverty, child support represents an average of 26 percent of a family's income. Families receiving public assistance receive little or no child support because they assign their right to child support to the state. For these families, child support payments represent 12 percent of a family's income. Further studies have indicated that child support supplements, rather than supplants, earnings.

Aside from the immediate financial benefits that child support payments provide families, the support payments also serve to foster a better relationship between noncustodial parents and their children. Often when parents do not pay the required support, they are unaware of the consequences that the lack of support has on their children. For a child, a lack of support often indicates that the paying parent does not care about his or her well being.

In recognition of the importance of child support, the Friend of the Court and the Office of Child Support may employ several enforcement remedies pursuant to the Support and Parenting Time Enforcement Act to ensure the collections of current and past due child support. The enforcement remedies include contempt proceedings, license suspension, the attachment of liens, and collecting past due support through state and federal income tax refunds.

Despite the availability of these enforcement remedies, a great number of parents continually do not meet their financial obligations. Last year, the *Detroit News* reported that 400,000 children did not receive the support that has been ordered to them. It was also reported that more than 670,000 families who are owed support have been forced onto state assistance. In a recent press conference, Governor John Engler and state Supreme Court Chief Justice Maura Corrigan reported that approximately one-third of the more than 800,000 child support orders involve parents who either do not make payments at all or on time. With an estimated \$6.3 billion in past due support is due to the children of the state, legislation has been introduced that would allow the Office of Child Support to centralize enforcement activities, as a means to better enable the state to actively collect past due child support payments.

THE CONTENT OF THE BILL:

House Bill 6008 would amend the Office of Child Support Act (MCL 400.231 et al.) to add new duties to the Office of Child Support and centralize enforcement procedures. The bill would take effect on December 1, 2002.

The bill adds that the OCS would provide discovery and support for support enforcement activities as provided in the Support and Parenting Time Enforcement Act (Public Act 296 of 1982). In addition, the OCS would implement safeguards against the unauthorized use or disclosure of case record information that are designed to protect the privacy rights of the parties as specified in the federal Social Security Act and that are consistent with the use and disclosure standards provided under the Social Welfare Act (Public Act 280 of 1939).

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Finally, the OCS would centralize administrative enforcement remedies and develop and implement a centralized enforcement program to facilitate the collection of support for Friend of the Court cases.

The bill states that, based on criteria established by the OCS and the State Court Administrative Office (SCAO), the OCS could centralize administrative enforcement procedures for services provided under Title IV-D of the federal Social Security Act. In addition, the OCS could centralize the enforcement activities for Friend of the Court cases, based on criteria established by the OCS and the SCAO. The criteria for centralizing activities for a Friend of the Court case would require, at a minimum, both of the following:

- That support enforcement measures undertaken by the Friend of the Court have been unsuccessful, including, though not limited to, a lack of regular and substantial payments against the arrearage.
- That the arrearage is greater than or equal to the amount of support payable either for 12 months or, if the recipient of support requests centralized enforcement, for six months.

Each Friend of the Court office would provide the OCS with any information necessary to identify cases eligible for enforcement, in addition to case information necessary for the office to pursue enforcement remedies.

The OCS's centralized enforcement could include any enforcement remedy under the Support and Parenting Enforcement Act; contracting with a public or private collection agency; contracting with a public or private locator service; publishing a delinquent payer's name; or entering into a local or regional agreement with a law enforcement agency or prosecutor. However, except upon the request of the recipient of support, an additional fee could not be charged to the recipient of support for collection services by any public or private collection agency contracting under the provisions of the bill.

The OCS would be required to notify the custodial parent in each Friend of the Court case that it selects for centralized enforcement that the parent's case has been selected. In addition, the OCS would be required to develop a system to track each case selected for centralized enforcement so that the appropriate Friend of the Court office can be identified. The OCS would process collections that resulted from the centralized enforcement through the State Disbursement Unit (SDU) and, for the purpose

of child support incentive collections, would credit those collections to the appropriate Friend of the Court office. In consultation with the SCAO, the OCS would establish policies and procedures for expenses related to enforcement activities under the act.

The added ability of the OCS to centralize enforcement procedures would not limit the office's ability to enter into agreements for support enforcement with a Court Family Services Office, law enforcement agency, prosecutor, governmental unit, or private entity as that ability existed prior to the enactment of the bill.

The bill would require the OCS to submit an annual report to the legislature within one year after the bill's effective date and within one year after the deadline for the previous report regarding Friend of the Court cases assigned to a private collection agency for support collection under a contract with the office. The report would include, at least, the total number of Friend of the Court cases assigned; the total number of those cases in which a support payment was received; the total support collected for those cases; and the total support due for those cases, for each private collection agency assigned to collect support payment.

BACKGROUND INFORMATION:

The bill is part of a larger package of bills proposed by Governor John Engler and state Supreme Court Chief Justice Maura Corrigan that is designed to clarify and strengthen existing law, and centralize and streamline procedures taken to enforce orders, both of which are intended to better enable the local Friend of the Court Offices to refocus their resources, improve service, and increase child support collections. [See House Bills 6004-6012, 6017, and 6020.]

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

It has been estimated that child support arrearages in the state exceed \$6 billion. Clearly, the current system for collecting these arrearages has not fulfilled its mission. House Bill 6008 would allow the Office of the Child Support to 'centralize' the enforcement remedies of cases that have been in

arrearage for more than one year, or more than six months, upon the request of the recipient of support.

Under current practice, any centralization of enforcement activities requires a county-by-county agreement. This process has led to a disparate application of an enforcement remedy. Centralization will standardize enforcement procedures and bring about consistency and a uniform application of these enforcement remedies throughout the state. In addition, the centralization of enforcement remedies in these cases will reduce the administrative burdens of the Friend of the Court when enforcing child support orders. This will allow the Friend of the Court to spend more time to proactively pursue child support collections. Furthermore, a centralized location can improve the collection of child support when parties live in different counties.

Response:

The Friend of the Court should be given more ability to determine which cases should be selected for the centralized enforcement proceedings.

Against:

The centralization of enforcement activities will open the door to privatization. If these services are provided outside of the Friend of the Court system, the Friend of the Court will not have the information necessary to properly enforce child support orders through the judicial process. According to committee testimony, there have been instances where a private company has collected support on behalf of a person, but did not pay the intended recipient. In other instances, the Friend of the Court was not notified of any collections, and the office went forward with enforcement procedures despite the fact that money had indeed been collected. Furthermore, studies vary on the true effectiveness of contracting out child support enforcement programs. In many instances private entities are no more, and in some cases less, cost-effective than traditional public agencies at collecting child support.

The privatization of such services can seriously compromise the services provided by the Friend of the Court as privatization would likely result in the loss of jobs. Already, the Friend of the Court generates more complaints than any other governmental agency. Current problems with the Friend of the Court will increase significantly as jobs and services are lost to private entities. Furthermore, local remedies that are currently employed by each Friend of the Court office provide each party involved in a child support matter with fair and personalized service. Friend of the Court

caseworkers understand the nature of each case, and may be able to ‘encourage’ payers to pay, rather than forcing them to pay, which goes well beyond providing financial assistance to a child. Private entities, however, are not in the business to be fair. This problem is made worse by the compressed time requirements in other bills in the package. As a result, the due process in these enforcement matters is seriously compromised.

Response:

To label the bill as “privatization” is really a misnomer. The use of private entities would be one of several means to centralize enforcement remedies. This is not a way to centralize individual cases. Furthermore, the OCS would only get involved in cases with an arrearage of at least one year. In these cases, the Friend of the Court has failed to meet its obligation to collect child support payments. Any additional resources that would be provided by the OCS would only serve to enhance the collection of these support arrearages.

Against:

House Bill 6008 would give additional duties to the FIA. Given the “early out” retirement plan, it would be unwise, at this point, to give additional responsibilities to an already overburdened FIA.

Against:

The full House reinstated an amendment that had been removed by the Committee on Family and Children Services, which permits the OCS to centralize enforcement for a case with an arrearage greater than or equal to the amount payable for six months, upon the request of the recipient of support. The committee version would have allowed the OCS to centralize enforcement for cases with an arrearage greater than or equal to the amount payable for one year. This means that the OCS will centralize enforcement activities for nearly all cases with an arrearage greater than or equal to the amount payable for six months. While this may relieve the stress placed on local Friend of the Court offices, this may very well place a greater burden on the Office of Child Support. This will lead to the privatization of more cases, and, again, there has been no clear and convincing evidence to indicate that such privatization is any more effective at collecting support payments.

Analyst: M. Wolf

■ 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.