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## ASSIGNMENT, REDIRECTION, AND ABATEMENT OF CHILD SUPPORT

### House Bill 6010 as passed by the House Second Analysis (6-4-02)

**Sponsor: Rep. Mark Jansen**  
**Committee: Family and Children  
Services**

#### ***THE APPARENT PROBLEM:***

In recent years, the living situations of children of divorced families have become increasingly complex. In some instances children do not live with the custodial parent who receives child support payments on behalf of those children. Two circumstances are fairly common. The child for whom support has been ordered may reside with a relative or a neighbor without a formal court order granting custody or child support to the relative or neighbor or, the child may reside with the paying parent. In both instances, however, though the child does not reside with the custodial parent, that parent still receives child support payments. As part of a package of legislation to improve child support collection, legislation has been introduced that would allow the Friend of the Court to redirect child support payments to the party actually responsible for the child.

#### ***THE CONTENT OF THE BILL:***

The bill would amend the Support and Parenting Time Enforcement Act (Public Act 295 of 1982) to allow for the assignment, redirection, and abatement of child support under certain circumstances.

Specifically, if a child for whom support is ordered is under the state's jurisdiction and placed in foster care, support would be assigned to the Family Independence Agency. This assignment of support would take precedence over a redirection of support.

In addition, the bill would allow the Friend of the Court to consider and redirect support to the person responsible for the actual care, support, and maintenance of a child for whom support has been ordered.

Furthermore, the bill would also require the Friend of the Court to abate support for a child who resides full-time with the payer, in accordance with policies established by the Friend of the Court Bureau.

Support would not be redirected or abated until 21 days after the Friend of the Court notifies each party. The bill would allow a party to a support order to object to a redirection or abatement of support. If a party objected to the redirection or abatement within the 21 days, support would not be redirected or abated. After an objection, the office would either review the support order or notify each party that they could file a motion to modify support.

The bill would require that each support order that the court enters or modifies include statements notifying the parties of the court's ability to assign, redirect, or abate support in the above manner. In addition, the Friend of the Court Bureau could implement policies to assist each office in determining when the office should give a notice of a proposed redirection or abatement.

The bill would take effect on June 1, 2003.

MCL 552. 602 and 552.605d

#### ***BACKGROUND INFORMATION:***

Related Legislation. 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.]

Foster Care Assignment. Under the federal Social Security Act, in cases when a family is receiving assistance from the state, the state pays to the federal government its share of the amount of support collected, and retains or distributes the state's share of the amount of support collected. As is the case

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under the bill, the act requires any amount of child support collected by a state on behalf of a child for whom a public agency is making foster care maintenance payments under Title IV-E to be retained by the state to reimburse it for making the payments. [See 42 U.S.C. 657]

### ***FISCAL IMPLICATIONS:***

Fiscal information is not available.

### ***ARGUMENTS:***

#### ***For:***

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 together. However, absent a formal court order modifying custody or child support, if the child no longer resides with the custodial parent who receives the child support payments on that child's behalf, the child does not receive the ordered child support. Allowing the Friend of the Court redirect the payments to the party actually responsible for the care of the child ensures that child support payments will be paid for the benefit of the child, who is the intended ultimate beneficiary of such support. Furthermore, the federal Social Security Act (42 U.S.C. 654) requires the state's plan regarding child support to provide that any payment of support be made to the resident parent, legal guardian, or caretaker relative having custody of or responsibility for the child.

#### ***For:***

The bill is intended to streamline the current process for modifying a support order in cases where the child for whom support has been ordered is not residing with the custodial parent, who is the recipient of that support on behalf of the child. Under current law, a party may request the Friend of the Court to review a support order once every two years. A person, with or without the assistance of an attorney, may file a motion to ask the court to modify the amount of support immediately. Parties may file a motion to modify support whenever circumstances change (such as the payer receiving a raise or losing his or her job). By allowing the Friend of the Court to redirect or abate child support payments, the bill attempts to handle this process administratively, leaving the matter out of the courts, whenever possible.

#### ***Response:***

While the bill attempts to provide for a streamlined administrative procedure, it fails to provide parties

with adequate due process. There already exist in current law procedures for an individual to file for a modification of child support. The bill would provide that support be redirected or abated unless the current recipient of support objects to the redirection or abatement. This places an undue hardship on the current recipient. Under current law, the burden of proof lies in the person seeking the support modification. However, the bill places the burden of proof squarely on the shoulders of the current recipient.

#### ***Against:***

Some believe that the bill overlooks the shared economic responsibility formula for child support. As a result, custodial parents may be reluctant to seek assistance from a family member or the noncustodial parent, out of fear that he or she would lose the child support payments.

### ***POSITIONS:***

The Family Independence Agency supports the bill. (5-30-02)

Dads of Michigan PAC supports the bill. (6-3-02)

The Friend of the Court Association supports the concept of the bill. (5-31-02)

The Association for Children for Enforcement of Support (ACES) opposes the bill. (5-31-02)

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.