House
Legislative
Analysis
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CHILD SUPPORT AMENDMENTS

House Bill 5368
Sponsor: Rep. David Farhat

House Bill 5369
Sponsor: Rep. David Robertson

House Bill 5370
Sponsor: Rep. Philip LaJoy

House Bill 5371
Sponsor: Rep. Fran Amos

House Bill 5372
Sponsor: Rep. John Garfield

House Bill 5373
Sponsor: Rep. Mike Nofs

Committee: Judiciary

Complete to 2-13-04

A SUMMARY OF HOUSE BILLS 5368-5373 AS INTRODUCED 12-10-03

House Bill 5368 would amend the Office of Child Support Act (MCL 400.242) to require the office to submit to the attorney general by December 1 of each year a list of names of payers who owe more than $200,000 in past due child support. The list would have to include the amount owed by each individual and indicate whether the individual's location was known, unknown, or unverified.

The Office of the Attorney General could publish the list on an appropriate Internet web site, and could distribute a "most wanted" list, including names and photographs, and post the list on the Internet and in public places.

House Bill 5369 would amend the Penal Code (MCL 750.165) to provide a series of penalties for criminal nonsupport. Currently, the code says that an individual who does not pay court-ordered support for a current or former spouse, or for a child, is guilty of a felony punishable by imprisonment for up to four years or a fine of not more than $2,000, or both. The proposed penalties in the bill are as follows:

An individual would be guilty of a felony punishable by up to 10 years' imprisonment or a fine of not more than $15,000 or three times the unpaid support, whichever was greater, or both imprisonment and fine, if any of the following applied: the amount of unpaid support was $20,000 or more; the individual had failed to pay the court-ordered support for more than five

years; or the individual had two or more prior convictions for committing or attempting to commit criminal nonsupport.

An individual would be guilty of a felony punishable by imprisonment up to five years or a fine of not more than $10,000 or three times the unpaid support, whichever was greater, or both imprisonment and a fine, if any of the following applied: the amount of unpaid support was $1,000 or more but less than $20,000; the individual had failed to pay court-ordered support for more than three years; and had one or more prior convictions for nonsupport.

An individual would be guilty of a misdemeanor punishable by imprisonment for up to one year or a fine of not more than $2,000 or three times the unpaid support, whichever was greater, or imprisonment and a fine, if the amount of unpaid support was less than $1,000 or the individual had failed to pay court-ordered support for more than 90 days.

If a prosecuting attorney intended to seek an enhanced penalty based upon a defendant's prior conviction or convictions, he or she would have to list the prior convictions on the complaint and information. The existence of the prior convictions would be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The prior convictions, however, could not be used to further enhance sentences for convictions under Sections 10, 11, or 12 of Chapter IX of the Code of Criminal Procedure, which deal with sentencing for committing multiple felonies.

House Bill 5370 would put the new felony penalties proposed by House Bill 5369 into the sentencing guidelines in the Code of Criminal Procedure (MCL 777.16i) and is tie-barred to House Bill 5369.

House Bill 5371 would amend the Friend of the Court Act (MCL 552.519) to amend the provision that establishes a formula for the modification of child support and health care obligations. The bill would specify that the formula could not reduce an established support payment by more than 50 percent if the individual filing the petition was incarcerated in prison and had been sentenced to serve a maximum term of five years in prison, or by more than 25 percent if the individual was incarcerated and had been sentenced to serve more than a minimum term of five years and less than a maximum term of ten years.

House Bill 5372 would amend the Support and Parenting Time Enforcement Act (MCL 552.631) to specify that if an individual was arrested on a felony warrant for violating the criminal nonsupport provisions of the Michigan Penal Code, the court would require the individual to remain in custody until the time of the preliminary examination unless the individual deposited a cash performance bond. The bill also would specify that upon notification that a payer with an outstanding bench warrant had been arrested or arraigned on a felony warrant, the court would order the bench warrant recalled.

House Bill 5373 would amend the section of the Michigan Penal Code (MCL 750.165) dealing with the failure to pay court-ordered support to specify that an individual arrested for a violation would remain in custody until the arraignment unless the individual deposited a cash bond of at least $500 or 25 percent of the arrearage, whichever was greater. If the individual

remained in custody, the court would address the amount of the cash bond at the arraignment and at the preliminary examination and, except for good cause shown on the record, would order the bond to be continued in the same amount. At the court's discretion, the cash bond could be set at an amount not more than 100 percent of the arrearage and the court could add costs required under the Support and Parenting Time Enforcement Act. The court would specify that the cash bond amount be entered into the LEIN. If a bench warrant under the Support and Parenting Time Enforcement Act was outstanding for an individual when the individual was arrested, the court would notify the court handling the civil support case that the bench warrant should be recalled.

House Bills 5372 and 5373 are tie-barred to one another, meaning neither would take effect unless both were enacted.

Analyst: C. Couch

■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.