



Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 4654 (Substitute H-3 as passed by the House)
House Bill 5259 (Substitute H-1 as passed by the House)
House Bill 5262 (Substitute H-1 as passed by the House)
Sponsor: Representative Alexander Lipsey (H.B. 4654)
Representative John Stahl (H.B. 5259)
Representative Doug Hart (H.B. 5262)
House Committee: Family and Children Services
Senate Committee: Families and Human Services

Date Completed: 11-30-04

CONTENT

House Bills 4654 (H-3), 5259 (H-1), and 5262 (H-1) would amend the Office of Child Support (OCS) Act, the Friend of the Court (FOC) Act, and the Michigan Penal Code, respectively, to establish a child support amnesty program and provide for the waiver of civil and criminal penalties for the support arrearage of a payer who complied with the program.

House Bills 5259 (H-1) and 5262 (H-2) are tie-barred to House Bill 4654, which is tie-barred to those bills.

House Bill 4654 (H-3)

Under the bill, if an individual who was obligated to pay child support had past due child support, criminal and civil penalties provided by law for failing or refusing to pay the past due support could be waived as established in criteria developed jointly between the OCS and the State Court Administrative Office, upon the individual's written request and full payment of the past due support, as provided in the bill.

For a period to be designated by the OCS of at least 90 days and ending before seven months after the bill's effective date, there would have to be an amnesty period during which the OCS could not enforce criminal and civil penalties provided by law for failing or refusing to pay past due child support if an individual who was obligated to pay requested a waiver in writing and made a payment in either a lump sum or installments. An individual could pay past due support in installments if he or she submitted 50% of the past due support due with the waiver request and paid the remaining past due support within 90 days after the start of the designated amnesty period.

The bill would apply to the nonpayment of child support previously determined to be due, but only to the extent of the criminal and civil penalties on the past due support attributable to the child support that was previously due and that was paid during the amnesty period.

The OCS would have to administer the program, and notify individuals who were eligible for the program at least 60 days before the start of the designated amnesty period.

Notification would be sufficient if a description of the amnesty program were included in scheduled notices and on the internet.

An individual would not be eligible to participate in the amnesty program if, before he or she sought participation, he or she had been arrested on a criminal warrant or bench warrant related to his or her child support obligation. Additionally, an individual would not be eligible if, before he or she sought participation, prosecution had been initiated under Section 161, 165, or 167 of the Michigan Penal Code.

(Under Section 161 of the Michigan Penal Code, a person who deserts or abandons his or her spouse or children younger than 17 without providing necessary and proper shelter, food, care, and clothing for them, or a person of sufficient ability who fails or refuses to provide necessary and proper shelter, food, care, and clothing for his or her spouse and children under 17, is guilty of a felony punishable by imprisonment in a State correctional facility for between one and three years or in the county jail for three months to one year.

Section 165 provides that, if the court orders an individual to pay support for his or her child or former or current spouse, and the individual does not pay the support in the amount or at the time stated in the order, he or she is guilty of a felony punishable by imprisonment for up to four years and/or a maximum fine of \$2,000.

Under Section 167, a person is a "disorderly person" if he or she is of sufficient ability and refuses or neglects to support his or her family. Being a disorderly person is a misdemeanor.)

House Bill 5259 (H-1)

The bill would require a Title IV-D agency to comply with the amnesty program established under House Bill 4654 (H-3). An individual would be ineligible to participate in the amnesty program if he or she were arrested on a criminal warrant or bench warrant related to his or her support obligation, or prosecution had been initiated for a violation of Section 161, 165, or 167 of the Michigan Penal Code.

(Title IV-D of the Federal Social Security Act requires states to have a program to secure child support from legal parents with the financial ability to pay. Each state must establish methods for locating absent parents, establishing paternity, and collecting child support payments.

The state agency that administers the child support program is designated as the Title IV-D agency. The Office of Child Support Services, within the Family Independence Agency, is Michigan's Title IV-D agency. Under the Support and Parenting Time Enforcement Act, however, "Title IV-D agency" means the agency in Michigan performing the functions under Title IV-D, and includes a person performing those functions under contract, including an FOC office or a prosecuting attorney.)

House Bill 5262 (H-1)

Under the bill, if an individual were participating in the proposed child support amnesty program, prosecution could not be initiated for a violation of Section 161, 165, or 167 of the Michigan Penal Code during the amnesty period.

If prosecution had been initiated, or if the individual were arrested on a criminal or bench warrant related to his or her child support obligation, before he or she sought to participate in the amnesty program, he or she would not be eligible to participate. A payer who made full payment of past due support during the amnesty period could not be prosecuted for failing to pay support due before the start of the amnesty period.

The bill would not apply after six months following its effective date.

Proposed MCL 400.233b (H.B. 4654)
MCL 552.511 (H.B. 5259)
Proposed MCL 750.161a (H.B. 5262)

Legislative Analyst: Julie Koval

FISCAL IMPACT

To the extent that a child support amnesty program would potentially decrease the number of child support cases with arrearages, the bills would provide indeterminate, and likely insignificant, savings in the administrative costs of collecting on cases with past due amounts and in the criminal justice costs of prosecuting such cases and incarcerating individuals convicted of failing to pay child support. By providing for the waiver of fines associated with failure to pay child support, the bills could decrease penal fine revenue, which is dedicated to public libraries.

Fiscal Analyst: Bethany Wicksall

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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.