



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

House Bill 4774 (Substitute S-3 as reported)  
Sponsor: Representative Jim Howell  
House Committee: Judiciary  
Senate Committee: Families and Human Services

## **CONTENT**

The bill would amend the Support and Parenting Time Enforcement Act to provide that a surcharge on past due child support could not be assessed under certain circumstances; and allow a party or the Friend of the Court (FOC) to file a motion for a repayment plan providing for the discharge of a surcharge and the waiver of a future surcharge, for surcharges accruing after the bill's effective date.

Currently, a surcharge must be added to support payments that are past due as of January 1 and July 1. Under the bill, beginning on July 1, 2005, a surcharge could not be assessed for the current semiannual cycle in cases in which the FOC was collecting on a current child support obligation, and the payer had paid at least 90% of the most recent semiannual obligation during the semiannual cycle. Also, for a support order entered after the bill's effective date, a surcharge could not be assessed for any period of time a support order did not exist when support was later ordered for that period. In addition, a surcharge could not be assessed if it were waived or abated under a court order. These provisions would take effect on June 30, 2004.

A party or the FOC could file a motion with the court for a repayment plan order that, subject to Federal law or regulation, provided for the discharge of amounts assessed as surcharge and for the waiver of future surcharge. After notice and a hearing, the court would have to enter the repayment plan order if it found that the arrearage did not arise from conduct the payer engaged in exclusively for the purpose of avoiding a support obligation; the payer had no present ability, and would not have an ability in the foreseeable future, to pay the arrearage absent a repayment plan that waived or discharged amounts assessed as surcharge; the plan was reasonable based on the payer's current ability to pay; and the surcharge accrued or would accrue after the bill's effective date.

If the court found that the payer had failed substantially to comply with the repayment plan, upon notice and a hearing, the court would have to enter an order reinstating the surcharge and all or part of the surcharge that was discharged. The repayment plan provisions would take effect on June 30, 2005.

MCL 552.602 et al.

Legislative Analyst: Julie Koval

## **FISCAL IMPACT**

The bill would reduce State revenue by an unknown amount by establishing circumstances under which overdue support payments would be exempt from surcharge assessments. It is unknown how many cases would meet the criteria for an exemption from the surcharge assessment, or the amount of money associated with those cases.

Date Completed: 5-24-04

Fiscal Analyst: Constance Cole  
David Zin