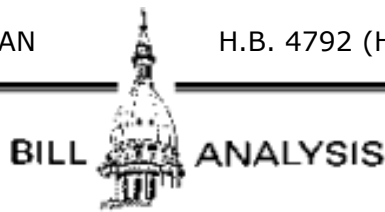




Senate Fiscal Agency
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House Bill 4792 (Substitute H-2 as passed by the House)
Sponsor: Representative John Garfield
House Committee: Judiciary
Senate Committee: Families and Human Services

Date Completed: 2-9-04

CONTENT

The bill would amend the Support and Parenting Time Enforcement Act to allow a person who had an arrearage under a child support order to establish an arrearage payment plan.

Specifically, a payer who had an arrearage could file a motion with the circuit court for a payment plan to pay arrearages and to discharge or abate arrearages. The court would have to approve the payment plan after notice and a hearing if it found that the plan was in the best interest of the parties and children and that either of the following applied:

1. The arrearage was owed to an individual payee and both of the following applied:
 - The payee had consented to entry of the order under circumstances that satisfied the court that the payee was not acting under fear, coercion, or duress; and
 - The payer established that the arrearage did not arise from the payer's conduct designed exclusively for the purpose of avoiding a support obligation.
2. The arrearage was owed to the State or a political subdivision, and the payer established all of the following:
 - The arrearage did not arise from conduct engaged in exclusively to avoid a support obligation;
 - The payer had no present ability, and would not have an ability in the foreseeable future, to pay the arrearage without a payment plan;
 - The plan would pay a reasonable portion of the arrearage over a reasonable period of time in accordance with the payer's current ability to pay; and
 - The Office of Child Support (OCS) had received notice of the payer's intent to petition the court and within 56 days executed a waiver consenting to the court's considering the merits of the proposed payment plan. By executing the waiver, the OCS would consent to a compromise of arrearages that the court ordered after considering the payer's motion. If the OCS did not consent to a compromise, it would have to notify the payer within 56 days.

If, after notice and hearing, the court found that the payer had completed the payment plan, the court would have to enter an order discharging the remaining arrearage, if any. If the court found that the payer had substantially completed the payment plan, the court could enter an order granting relief appropriate to the circumstances of the case.

A payment plan could provide for discharge of any portion of an arrearage that met the above requirements, even if other portions did not meet them.

A payment plan would have to provide that arrearages subject to the plan could be reinstated upon motion and hearing for good cause shown at any time during the pendency of the payment plan. The bill specifies that good cause would include, but would not be limited to, the payer's receiving property such as lottery proceeds, other winnings, or an inheritance sufficient to pay the amount discharged.

A court could require conditions in the payment plan in addition to the payment of support that the court determined were in the best interests of a child, including any of the following:

- A payer's participation in a parenting program.
- Drug and alcohol counseling.
- Anger management classes or participation in a batterer intervention program that met the standards recommended by the Governor's Task Force on Batterer Intervention Standards.
- Participation in a work program.
- Counseling.
- Continuing compliance with the current support order.

The bill specifies that it would neither modify a party's right to receive other child support credits to which the payer was entitled nor prevent the court from correcting a support order under other applicable law or court rule.

The Family Independence Agency (FIA) would have to designate an office to receive service of a motion under the bill. Upon the FIA's request, the Friend of the Court that administered and enforced the support order would have to provide additional case information not available via the automated system to assist the FIA in considering the waiver and payment plan request.

Proposed MCL 552.605e

Legislative Analyst: Julie Koval

FISCAL IMPACT

It appears that the bill would have an indeterminate fiscal impact on the FIA. The provision of additional case information not available via the automated system could result in some small additional administrative costs. The FOC also could face increased administrative costs related to monitoring payment plans.

Fiscal Analyst: Constance Cole
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.