



Senate Fiscal Agency  
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## BILL ANALYSIS



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Senate Bill 891 (Substitute S-2 as reported by the Committee of the Whole)

Sponsor: Senator Bill Hardiman

Committee: Families and Human Services

Date Completed: 7-25-06

### **RATIONALE**

Despite significant efforts to reduce the child support arrearage in Michigan in recent years, collecting past due child support payments remains a difficult problem. The Office of Child Support and the Friend of the Court are authorized to use a variety of collection methods, including withholding income, imposing liens, and deducting payments from State and Federal income tax refunds, to recover past due support payments. Nevertheless, the total amount owed by child support payers in Michigan continues to grow. In 2005, the arrearage totaled about \$8.9 billion, up 2.8% over the previous year, according to the Office of Child Support. Studies cited by the Friend of the Court Association in 2004 indicated that up to 75% of individuals who were in arrears on their child support made less than \$10,000 a year, while the Department of Human Services (DHS) reports that the average amount owed is \$14,000. In such cases, it may be impossible for the individual ever to repay the debt. Also, an individual's ability to pay sometimes might be hindered by a change in circumstances such as incarceration, unemployment, injury, illness, or unexpected expenses. The Office of Child Support estimates that only 25% to 35% of the total arrearage is recoverable.

In 2004, legislation was enacted to streamline the collection of child support payments in Michigan, and to reduce the arrearage owed to families and to the State. Among the enacted measures was Public Act 211 of 2004, which amended the Support and Parenting Time Enforcement Act to permit a person who is in arrears, and who otherwise would be unable to repay the full amount, to negotiate a payment plan to repay a reasonable portion of the arrearage.

After successful completion of an approved payment plan, the circuit court may discharge the remaining arrearage, if any. For individuals at or below the poverty line, the payment plan must extend at least 24 months, with longer payment plans required for those with higher incomes.

The legislation, however, conflicts with other statutory provisions that require the State Administrative Board to approve settlements of accounts over \$750 at a discount greater than 15%. It has been suggested that exempting the DHS from this requirement would codify current practice and allow the Department to settle past due accounts and recoup some of the outstanding support payments owed to families and to the State.

### **CONTENT**

**The bill would amend provisions of the revenue Act concerning the responsibility of the Department of Treasury for collecting past due amounts owed to the State. The bill would do the following:**

- Require the Department, except as otherwise provided in the Act, to supervise the collection of all past due money owed to the State.**
- Authorize the Department to settle and compromise claims and accounts, but require the approval of the State Administrative Board for the settlement of a claim or account over \$750 at a discount of more than 15% (as is currently required under Public Act 375 of 1927).**
- Require the Department of Human Services to collect support payments**

**owed to the State and authorize the DHS to settle and compromise claims and accounts and issue receipts for collections, subject to the authority granted to it by several statutes.**

The bill would require the Department of Treasury, except as otherwise provided under the Act, to supervise and control the collection of all past due money and accounts owed to the State or to any officer, department, commission, board, or agency of the State.

Under the revenue Act, the Department of Treasury is required to perform the duties formerly vested in a department, board, commission, or other agency, in connection with taxes due to or claimed by the State and in connection with unpaid accounts or money due to the State or any of its departments, institutions, or agencies that may be payable to or collectible by the Department. The bill would retain this provision, except as otherwise provided under the Act.

Under the Act, the Department of Treasury is vested with all powers, duties, functions, and jurisdiction of the Attorney General under Public Act 375 of 1927. (That Act provides for a collection department under the control of the Attorney General, for the purpose of collecting all past due money and accounts that are owed to the State or any department, commission, or institution of the State.) In addition, the State Tax Commission is vested with the responsibilities of the Corporation and Securities Commission over the enforcement, investigation, and collection of past due corporate privilege and franchise fees and license fees of any nature. The bill would delete both of those provisions.

Under Public Act 375 of 1927, each State officer, department, institution, or commission is required from time to time to forward to the Treasury Department statements of all delinquent money, specific taxes, and accounts owing or belonging to the State, or any department, commission, or institution of the State, together with any information necessary to enable Treasury to carry out the purposes of the Act. The Treasury Department is required to keep an accurate record and account of those statements; enforce payment and collection of those amounts; keep an accurate account

of all money collected; report monthly all collections made to the department, commission, or institution to which the indebtedness had been incurred; and pay monthly to the State Treasurer all money collected unless otherwise provided by law. The bill would insert the same provisions into the revenue Act, except as otherwise provided in the Act.

Under the bill, the Department of Treasury could settle and compromise claims and accounts and receive and issue receipts for collections and payments subject to the supervisory control of the State Administrative Board. Except as provided below, a claim or account of more than \$750 could not be settled or compromised at a discount greater than 15% without the Board's approval. (Under Public Act 375 of 1927, the Attorney General has the authority to take those actions, subject to the same limitation.)

The bill would vest the Department of Human Services and its designees with all of the powers, duties, functions, responsibilities and jurisdiction of the Department of Treasury under the revenue Act for the enforcement, investigation, and collection of support owed to the State. (The bills specifies that "support" would mean that term as it is defined in the Support and Parenting Time Enforcement Act, i.e., the payment of money ordered by the circuit court for a spouse or a child, the payment of money ordered by the circuit court under the Paternity Act, or a surcharge added to past due support payments.)

The bill would allow the DHS to settle and compromise claims and accounts and to receive and issue receipts for collections and payments, subject to the authority granted to it by the Federal Social Security Act, the Office of Child Support Act, and the Support and Parenting Time Enforcement Act.

MCL 205.1 et al.

**ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

**Supporting Argument**

Under Public Act 375 of 1927, the Attorney General has the authority to settle and

compromise claims and accounts, although the Act requires the approval of the State Administrative Board in settling accounts over \$750 at a discount greater than 15%. The revenue Act vests the same authority in the Department of Treasury. Despite these provisions, recent amendments to the Support and Parenting Time Enforcement Act permit the DHS to negotiate payment terms with individuals who are past due on child support payments. The bill would reconcile the various sections of law, permitting the DHS to carry out its collection activities without the involvement of the Department of Treasury or the Administrative Board. It is widely agreed that child support collection duties should remain within the DHS, where knowledge of case histories and mitigating circumstances can play a crucial role in deciding the appropriate course of action. The Administrative Board does not need to oversee each negotiated child support settlement. The bill would ensure that the DHS had the necessary authority to carry out negotiations and settle claims, without diminishing the authority of the Administrative Board to oversee other collection activities by the Department of Treasury.

**Response:** The bill should specify clearly that the Department of Treasury would have no authority over the collection of support payments. That authority should rest solely with the DHS or its constituent agencies.

Legislative Analyst: Curtis Walker

### **FISCAL IMPACT**

The bill is designed to make the revenue Act consistent with State law and current practice regarding the collection of child support. It also would enable the Department of Human Services to manage the total arrearage effectively.

Fiscal Analyst: Bill Bowerman

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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.