



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 1128 (as enrolled)
Sponsor: Senator Valde Garcia
Senate Committee: Families and Human Services
House Committee: Family and Children Services

PUBLIC ACT 485 of 2006

Date Completed: 1-19-07

RATIONALE

With the changing structure of the U.S. Armed Forces, the military increasingly relies on reserve units and the National Guard to contribute to the national defense, including major combat operations. Historically, such forces rarely played an active role in armed conflicts, but beginning with Operation Desert Storm in the 1990s and continuing to the present wars in Iraq and Afghanistan, reserve units frequently have been called into active service for a year or more at a time. The units may be sent overseas, or they may act in a support capacity in the United States. Reserve soldiers who are called into active duty sometimes take a cut in pay, if their military salaries are less than their civilian income (although some employers offer supplemental pay to help compensate for the loss). In such circumstances, the temporary loss of income may make it difficult for an individual to make child support payments, which were calculated based on his or her civilian income. To address this situation, it was suggested that reserve soldiers, when called up for emergency military service, be allowed to request a temporary modification of their child support payment to reflect their military salaries.

CONTENT

The bill amended the Support and Parenting Time Enforcement Act to allow a temporary modification of a child support order if a payer is called into emergency military service that reduces his or her income.

The bill states that "emergency military service" means that the payer is a member of the armed forces reserves or National Guard, called into active military duty for a period of more than 30 days.

The bill took effect on December 29, 2006.

Specifically, the bill provides that if a payer (i.e., a person ordered by the circuit court to pay child support) is called to emergency military service, he or she may submit to the Office of the Friend of the Court a written request for a military service adjustment of his or her support obligation, along with information showing all military and civilian pay. An adjustment must be proportional to the payer's reduction in income, to be calculated by multiplying the payer's child support by his or her income during military service divided by the income upon which the support was ordered.

As a rule, a payer is not eligible for a military service adjustment before the date the Friend of the Court receives the request. If the payer requests an adjustment within 56 days of the date he or she is called to emergency military service, however, the adjustment must take effect beginning on the date he or she begins emergency military service.

If the Friend of the Court receives a request for a military service adjustment, it must calculate the adjustment and notify all parties of the following: the amount of the adjustment; that they may object to the adjustment within 21 days; and the place and manner for filing objections.

If a party objects to the adjustment, it must continue until the objection is resolved (as described below) or until 35 days after the payer's emergency military service ends, whichever is sooner.

The Friend of the Court must set a hearing before a judge or referee to determine whether an adjustment should be modified or set aside, if a party objects to the adjustment. The hearing must be held as soon as possible, and the court may permit the payer to appear at the hearing by any means authorized by Supreme Court rules. If the court cannot hold the hearing during the payer's emergency military service, it must do one of the following:

- Hold the hearing within 35 days after the payer's emergency military service ends.
- Conduct a support review upon a payer's return from emergency military service, in which case the notice of adjustment must be treated as a petition for modification of support for determining an effective date for the modification.
- Schedule a meeting between the parties, to be held upon the payer's return from emergency military service, to attempt to resolve the dispute over the adjustment.

MCL 552.615a

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

Child support payments are calculated, in part, based on an individual's ability to pay. When reserve and National Guard units are called up for active duty, however, soldiers often experience a reduction in income, which can lead to financial difficulties and may leave an individual unable to make his or her support payments. To help ease the strain, the bill allows a soldier being called into active duty to request a temporary modification of his or her child support payment based on his or her active duty pay. The reduction must take into account all of the individual's income, including military and civilian pay, and any adjustment will be proportional to the reduction in income. For example, if a soldier's active duty pay is 10% lower than his or her civilian salary, then his or her

child support payment may be reduced by 10% during his or her tour of duty. Service members who experience an increase in income during active duty will not be eligible for an adjustment under the bill. Also, the bill will apply to all reserve and National Guard members, regardless of whether they serve overseas or here in the United States, since all soldiers called up for active duty make sacrifices and serve an integral function in fulfilling the mission of the Armed Forces, and should not be treated differently based on where they serve.

When called up for active duty, a service member generally is given only 30 days' notice. During that time, he or she must take care of many personal matters, including making financial arrangements, notifying his or her employer, seeking any necessary medical treatment, and taking care of family concerns. Because of the short time frame involved and the many obligations that the departing soldier faces, the bill gives a person 56 days after being called up to request a temporary reduction that will take effect on the date he or she began emergency military service. This provision will give the soldier sufficient time to apply for a reduction, while complying with the Federal restrictions on the retroactive adjustment of child support obligations.

Response: Although the bill basically codifies existing practice, a custodial parent will have little say in an adjustment under the bill. If a party objects to a temporary modification, the adjustment remains in effect until the objection is resolved, which in some cases may not be until the soldier returns from active service.

Furthermore, the process of dealing with the Friend of the Court can be time-consuming and stressful, and having to miss work repeatedly to attend hearings and deal with lengthy processes may harm an individual's career or cause other problems. The bill lacks any provisions to expedite the process by requiring the Friend of the Court to respond to an emergency modification request within a specific time, such as 48 hours or five business days. In addition, the bill does not include other changes that would simplify and speed up the process, such as allowing applications to be filled out and submitted on-line. The system for submitting on-line income tax returns could be used as a model; it is secure and easy to

use, and would be more convenient for individuals with busy schedules, who must balance family and work obligations.

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: Stephanie Yu

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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.