

Legislative Analysis



INTERCEPT CASINO WINNINGS & CREATE REGISTRY FOR PAST-DUE CHILD AND SPOUSAL SUPPORT

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5508 without amendment

Sponsor: Rep. Dale W. Zorn

House Bill 5509 (Substitute H-2)

Sponsor: Rep. Peter MacGregor

Committee: Families, Children, and Seniors

Complete to 5-27-14

A SUMMARY OF HOUSE BILLS 5508 & 5509 AS REPORTED FROM COMMITTEE

House Bill 5509 would amend the Michigan Gaming Control and Revenue Act (MCL 432.203) to:

- Require the holder of a casino license to intercept winnings to pay past-due support (as defined in the Friend of the Court Act). This would not apply unless the winnings are in an amount equal to or greater than the amount for which the licensee is required to file a form W-2G or equivalent form with the federal Internal Revenue Service. The licensee would be required to exclude from the amount intercepted any amount required to be withheld from the winnings for any applicable taxes under state or federal law.
- Require the Department of Human Services to create and maintain a secure, electronically accessible registry containing information regarding individuals who have past-due support, or else contract with a private or public entity for that purpose. The DHS would need to have the registry fully operational by January 1, 2016.

The term "support" is imported from the Friend of the Court Act, where it refers to (1) the payment of money for a child or a spouse ordered by the circuit court, including payment of the expenses of medical, dental, and other health care, child care expenses, and educational expenses; and (2) the payment of money ordered by the circuit court under the Paternity Act for the necessary expenses connected to the pregnancy of the mother or the birth of the child, or for the repayment of genetic testing expenses.

House Bill 5508 would amend the Office of Child Support Act (MCL 400.233) to require the Office of Child Support to coordinate with the Department of Treasury in the development of notices and the administration of the registry as specified in the Michigan Gaming Control and Revenue Act. House Bill 5508 is tie-barred to House Bill 5509, meaning it would not take effect unless House Bill 5509 is also enacted.

FISCAL IMPACT:

House Bill 5508 will likely have a minimal fiscal impact on the Department of Human Services to develop and administer a secure, electronically accessible registry and no fiscal impact on local units of government.

House Bill 5508 would increase administrative and operational costs for the Department of Treasury. The provisions of the bill require the Department of Treasury to work with the Office of Child Support enforcement in the development of notices and administration of a secure, electronically accessible registry of individuals who are obligated to support a child. There is no estimate regarding the cost to the Department of Treasury at this time.

House Bill 5509 may increase certain Michigan Gaming Control Board (MGCB) administrative costs by an indeterminate amount. The fiscal impact on the MGCB would be related to the amount of oversight responsibilities the MGCB was determined to have under the provisions of the bill. Under the Michigan Gaming Control and Revenue Act, the MGCB has rulemaking and oversight authority over the licensees (Detroit casinos). However, the legislation would provide DHS with the major oversight role regarding the registry and disputes related to the registry. MGCB states that its duties may include promulgation of rules for licensees to comply with the provisions of the bill, creation of internal control standards for the casinos to adhere to, and enforcement of the provisions, including audit procedures to ensure winnings are withheld.

With regard to each tribe voluntarily electing to participate with the provisions of the bill, the MGCB estimates that an additional temporary FTE (one-year) would be required in order to be involved in the negotiations, oversight, and administration of the agreement.

DETAILED SUMMARY (House Bill 5509)

The Registry

Under the bill the registry would need to be capable of performing the following functions:

- On receipt of information, if the wagerer is listed in the registry, inform the person that submitted information of the wagerer's past-due support and the account number or identifier assigned to the past-due support.
- Providing a person that submits information with a "notice of intercept form" developed by the Department of Human Services which informs an identified wagerer of the right to a review by the department of human services.

The Department of Human Services would be required to regularly enter information into the registry, to include; (a) the name and social security number of each individual who has past-due support; (b) the account number or identifier assigned by DHS to the past-due support; (c) the amount of the past-due support; and (d) any other necessary

information. The Department of Treasury would need to assist the DHS in carrying out the purposes of this section.

Pre-Disbursement of Winnings Requirements

Before paying winnings in an amount equal to or greater than the amount for which the licensee is required to file a form W-2G or substantially equivalent form with the federal Internal Revenue Service, a licensee would be required to obtain the name, address, date of birth, and social security number of the wagerer and electronically submit the information to the registry.

If the registry informs the licensee that the wagerer is not listed in the registry or if the licensee is not able to obtain information from the registry on a real-time basis after attempting in good faith to do so, the licensee could pay the winnings to the wagerer.

If the registry informs the licensee that the wagerer is listed in the registry, the licensee could not pay the winnings to the wagerer unless the amount of the payment exceeds the amount of past-due support and the fee imposed, in which case the licensee could pay the wagerer the amount of the winnings that exceeds the amount of the past-due support and the fee. In addition, if the wager is listed, the DHS would have a valid claim against the winnings in the amount of the wagerer's past-due support.

Procedures for Intercepting Winnings

A licensee would be required intercept from any winnings an amount equal to the amount of a claim and provide the notice of intercept to the wagerer. Within three business days after intercepting an amount, the licensee would need to transmit the amount intercepted to the state disbursement unit with a copy of the notice of intercept, a report of the name, address, and social security number of the wagerer, the account number or identifier assigned to the past-due support, the amount intercepted, the date of interception, and the name and location of the licensee. A licensee could retain \$25 from any amount of winnings that exceeds the amount of the wagerer's past-due support to cover the cost of complying with this section.

Wager Can Request Review of Intercept

A wagerer whose winnings amount was withheld could, within 15 calendar days after receipt of a notice of intercept, request in writing, that the DHS review the intercept. He or she would include a copy of the notice of intercept with the written review request. A challenge to an intercept is governed by this act and is not subject to the Administrative Procedures Act. The state disbursement unit would hold an amount transmitted until after the time for a review request.

Departmental Review

Within 15 calendar days after receiving a written request, the DHS would need to conduct a review to determine whether there was a mistake in the wagerer's identity or in the amount of the past-due support and issue a decision. The review decision would be the final agency action.

A wagerer who disagrees with a review decision could challenge the intercept by filing an action in the circuit court that issued a support order. The wagerer would need to file an action within 21 days after the DHA sends the notice of its review decision and also notify the department of the filing.

Information Confidentiality and Liability

Information obtained from a licensee, the state departments or the registry operator, and information created by a licensee is confidential and could be used only for the purposes specified in this bill. A record that contains information in the possession of the departments or the board is exempt from disclosure under the Freedom of Information Act (MCL 15.243) and is not a record available for public inspection under the act. An employee or former employee who knowingly or intentionally discloses any information is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not more than \$1,000.00, or both.

A licensee, the state departments, and the registry operator would not be liable for any action taken in good faith for compliance. A licensee that does not make a good faith effort to obtain information from the registry or intercept and transmit the amount of a claim would be liable to the DHS for the amount the licensee was required to intercept and transmit and any court costs, interest, and reasonable attorney fees.

Indian Tribes

The chair of the Gaming Control Board would be required to attempt to enter into an agreement with each Indian tribe that conducts gambling games in this state for the tribe to voluntarily intercept winnings to pay past-due support.

Reporting Requirement

By January 31, 2016, and January 31 of each even-numbered year after 2016, the DHS would be required to report to the legislature and the governor on all of the following:

- The number of names of wagerers submitted by licensees to the registry in each of the preceding two calendar years.
- The number of wagerers who were found to be listed in the registry after the submission of their names in each of the preceding two calendar years.
- The amount of winnings withheld by licensees in each of the preceding two calendar years.

Tax Liability of Licensee

Any amount intercepted by a licensee would continue to be winnings for purposes of calculating the licensee's adjusted gross receipts and the wagering tax imposed under the Act.

Implementation

The DHS, the Department of Treasury, and the licensees would be required to cooperate with each other to create the registry to make it capable of performing the functions described and to create any other systems necessary to implement the provisions in the bill. The DHS would need to have the registry fully operational by January 1, 2016.

POSITIONS:

Department of Human Services supports the bills. (5-21-14)

Family Law Section, State Bar supports the bills. (5-21-14)

Friend of the Court Association testified in support the bills. (5-7-14)

Greektown Casino opposes the bills as written. (5-21-14)

MGM Grand Detroit opposes the bills. (5-21-14)

Legislative Analyst: E. Best
Fiscal Analyst: Kevin Koorstra
Ben Gielczyk

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.