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BILL



ANALYSIS

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Senate Bill 650 (Substitute S-3 as reported)
Sponsor: Senator Steven Bieda
Committee: Families, Seniors and Human Services

Date Completed: 1-8-18

RATIONALE

Under the Social Welfare Act, the Department of Health and Human Services administers the Family Independence Program, which provides assistance to families who meet various conditions. Among other things, a recipient must comply with child support requirements, including efforts to establish paternity, unless doing so would endanger the child or recipient. Some have suggested that an exception also should be made in situations involving domestic abuse or a child who was conceived as a result of criminal sexual conduct.

The impetus for this suggestion was a 2017 case in Sanilac County, in which the circuit judge evidently required a mother to cooperate with paternity testing as a condition of receiving financial assistance for herself and her eight-year-old child. As a result, the father, who had been convicted of criminal sexual conduct and allegedly fathered the child by rape, was granted the right to pursue joint legal custody, according to news reports. Additionally, the father's name was ordered added to the child's birth certificate, the rape victim's home address was disclosed to the father, and the victim was ordered not to move more than 100 miles from where she lived when the case was filed, according to *The Detroit News* (Martindale, Mike, "Michigan Rapist Gets Joint Custody", *The Detroit News*, 10-6-2017). Although the judge rescinded his order, statutory amendments have been suggested to ensure that efforts to establish paternity would not be required as a condition of receiving financial assistance in cases that involve domestic violence or when a child is conceived as a result of rape.

CONTENT

The bill would amend the Social Welfare Act to excuse a recipient of Family Independence Program assistance from establishing paternity if the mother were a victim of domestic violence, the child were a victim of abuse, the child were conceived as the result of nonconsensual sexual penetration, or the child were conceived as a result of acts for which the child's biological father was convicted of criminal sexual conduct.

Under the Act, the Department of Health and Human Services must establish and administer the Family Independence Program (FIP) to provide temporary assistance to families who are making efforts to achieve self-sufficiency.

The Act requires FIP assistance to be denied or terminated if a recipient fails, without good cause, to comply with applicable child support requirements, including efforts to establish paternity, and assign or obtain child support. After FIP assistance has been terminated for at least one calendar month, assistance may be restored if the noncompliant recipient complies with child support requirements, including the action to establish paternity and obtain child support.

"Good cause" includes an instance in which efforts to establish paternity or assign or obtain child support would harm the child or in which there is danger of physical or emotional harm to the child or the recipient.

The bill would expand good cause to include an instance in which the mother was a victim of domestic violence, the child was a victim of abuse, the child was conceived as the result of nonconsensual sexual penetration, or the child was conceived as a result of acts for which the child's biological father was convicted of criminal sexual conduct as provided in the Michigan Penal Code, or a substantially similar statute of another state or the Federal government.

The Department would have to include in the assistance application information booklet information explaining that the applicant was excused from providing information to establish paternity and obtain child support if there were cause as described above.

The bill would take effect 90 days after enactment.

MCL 400.57e & 400.57g

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

Victims of domestic violence and child abuse can be placed "in danger of physical or emotional harm" by efforts to establish paternity or obtain support, which is good cause under current law for not participating in such efforts. By making it clear that good cause also would include situations involving domestic violence, child abuse, and the conception of a child by criminal sexual conduct, the bill would help protect victims. The bill would ensure that parents were not required to divulge information that could endanger them, as a condition of receiving assistance.

In addition, under the bill, the assistance application booklet would have to explain that an applicant would not be required to provide information to establish paternity or obtain child support under these circumstances. This would help sexual assault victims to understand and to take advantage of the "good cause" exemption to the child support and paternity requirements triggered by an application for FIP assistance.

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bill could result in a fiscal cost to the State and would have no fiscal impact on local government. Current practices identify paternity and assign or obtain child support for an individual who was conceived because of the criminal acts cited in the bill, or if the mother was a victim of domestic violence or the child was a victim of abuse. If a Family Independence Program group does not comply with the requirement of establishing paternity and seeking child support, benefits can be terminated. An increase in the number of good cause termination exemptions could result in a higher FIP caseload. Child support payments are included as countable income as a part of FIP group eligibility test. If a good cause exemption resulted in not establishing paternity and subsequently no child support payments were sought, a decrease in this type of countable income to a FIP group could result in a higher FIP caseload or longer case duration. Family Independence Program assistance is funded mainly from the Federal Temporary Assistance for Needy Families program, but there is a requirement that the State provide maintenance of effort funds to meet Federal requirements. A higher FIP caseload would result in a higher State-funded maintenance of effort.

Fiscal Analyst: John Maxwell

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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.