



**House
Legislative
Analysis
Section**

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CHILD PLACEMENT: TAX INTERCEPT

**Senate Bills 137 and 138 with House committee
amendments
First Analysis (5-8-89)**

**Sponsor: Sen. Rudy J. Nichols
Senate Committee: Finance
House Committee: Taxation**

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THE APPARENT PROBLEM:

When a young person is placed in care outside of his or her home (as a delinquent or abused or neglected child, for example) under either the juvenile code or the Code of Criminal Procedure, the court order is required to contain a provision for the parent, guardian, custodian, or child to provide a certain amount of reimbursement for the cost of care, taking into account the income and resources of the person responsible for the reimbursement. There are guidelines and a model schedule created by the state court administrator that may be used by the court in determining reimbursement levels. Such orders are not binding unless an opportunity for a hearing has been given and a copy of the order served on the appropriate person. Although the statutes contain no specific enforcement method, reimbursement orders can ultimately be enforced through contempt of court proceedings. This, however, is costly and time-consuming. It has been proposed that reimbursement orders be enforced, as a last resort, by the interception of tax refunds, just as child support arrearages have been since the passage of the Family Equity Package of 1985.

THE CONTENT OF THE BILL:

The bills would allow a court, in cases of delinquent accounts, to enter an order to intercept a state tax refund or a federal income tax refund of a child, parent, guardian, or custodian and to initiate the offset proceeding necessary to recover the cost of care or of services for a juvenile committed to state or court jurisdiction. Senate Bill 137 would amend the juvenile code to apply to probate courts and Senate Bill 138 would amend the Code of Criminal Procedure to apply to circuit courts. The bills are tie-barred.

MCL 712A.18 (Senate Bill 137) and 769.1 (Senate Bill 138)

HOUSE COMMITTEE ACTION:

A passed by the Senate, the bills allowed the interception of a state income tax refund. The House Taxation Committee adopted an amendment which would allow for the interception of any state tax refund (e.g., a homestead property tax refund).

FISCAL IMPLICATIONS:

The Senate Fiscal Agency has pointed out that the bills would increase the collections from parents of children who are in out-of-home placement and offset or decrease reimbursement by state, local, and federal government units. (3-10-89) According to a House Taxation Committee staff memo, reimbursement collections currently for out-of-home care are poor. In fiscal year 1988, \$79.8 million was spent through the Child Care Fund (\$32 million of state money) and \$1.8 million was collected in

reimbursement (with \$720,000 going to the state). The expenditure for foster care for state wards was \$138.8 million in fiscal year 1988 and for residential care \$49.7 million. Reimbursements totaled \$200,000. (Figures for how much was ordered in reimbursements are said not to be available.) (5-3-89)

ARGUMENTS:

For:

The bills would provide an efficient and effective way to recover money owed for the cost of caring for children who have been placed out of a home for such reasons as delinquency and abuse and neglect. This tax intercept approach has already been approved for cases of child support arrearages, and tax refunds are also intercepted in other cases when taxpayers owe money to the state. Officials say the tax intercept would be a last resort collection method. Abusive and negligent parents should not benefit financially when children are taken from their home; they should pay to support their children's care. At present, less than one percent of all foster care costs are reimbursed, officials say, and these bills could improve that record.

Response: While the bills would amend state law to authorize interceptions of federal income tax returns, federal law does not appear to authorize such interceptions by the state for foster care reimbursements, except in a category of cases involving the Aid to Families with Dependent Children program, according to social services officials.

Against:

Some people oppose this proposal because they believe it simply improves the efficiency of a bad system. The law penalizes good parents and can allow abusive parents to escape responsibility. The law requires a parent to pay for a child's out-of-home care even though he or she did not want the child removed and even though the parent is not at fault. It is not always the fault of parents when children become delinquents, and yet parents are assessed for out-of-home care regardless of their culpability. Yet if parents are so awful to their children that their parental rights must be severed, then they have no financial responsibility for the children they have abused and neglected. This seems to some a crazy system. Further, the attitudes toward enforcing orders to collect from parents differ so dramatically from county to county, and even, some allege, from case to case, that the system is thoroughly inequitable. The ability of courts to hound honest citizens and good parents (and ruin credit ratings) should not be enhanced.

Response: The duty of parents to support their children is not based on fault. Parents are financially responsible, for example, when illness befalls a child even though it was no one's fault. Parents have an obligation to support

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their children; this is not diminished when the children are removed from the home. Besides, the tax intercept would be used in cases of delinquent accounts, when someone had not paid an amount ordered by a court. The courts base reimbursement orders on ability to pay. If corrections are needed to the system, then bills should be introduced to make them. These bills would simply improve collections legitimately ordered by a court.

SUGGESTED AMENDMENTS:

The House Taxation Committee staff has recommended an amendment requiring advance notice to the taxpayer of the intercept. This is done in child support cases.

POSITIONS:

The Department of Social Services has no official position on the bills. (5-8-89)

The State Court Administrative Office has no objections to the bills. (5-8-89)

The Oakland County Probate Court supports the bills. (5-8-89)

The Board of Directors of the Michigan Association of Juvenile Court Administrators supports the bills. (5-3-89)

The Michigan Probate Judges Association supports the bills. (5-8-89)