



**House  
Legislative  
Analysis  
Section**

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**THE APPARENT PROBLEM:**

In response to federal requirements, Public Acts 273 through 279 of 1989 (enrolled House Bills 5265 through 5271) amended various statutes to provide for a rebuttable presumption for the use of the state child support formula. Language was inserted that generally required the circuit court, when ordering child support, to order the support in the amount determined by the formula. The court could deviate from the guideline amount if the parties agreed to a different amount (providing the party receiving child support was not receiving public assistance), or if the court determined from the facts of the case that application of the child support formula would be unjust or inappropriate. In the latter instance, the court would have to explain various things in writing and on the record, including the court's reasons for its determination.

The federal Department of Health and Human Services (HHS) has since notified the Department of Social Services (DSS) of deficiencies in the newly-enacted language. Specifically, the HHS disapproved of allowing parties to agree to an amount of support inconsistent with the guideline amount. According to the HHS, federal statute requires a court to consider whether the guideline amount would be unjust or inappropriate, and allows a court to deviate from the guideline amount only after determining that strict application of the formula would be unjust or inappropriate. The HHS also criticized Michigan's requirement for a written judicial report on the record, noting that a specific finding on the record was not required when parties agreed to an amount of child support inconsistent with the guideline amount. The HHS said federal law requires a specific finding on the record where the court or administrative agency determined not to use the guidelines because they would be unjust or inappropriate in a particular case.

A state that fails to meet the federal requirements is subjected to financial penalties. According to the DSS, Michigan could suffer penalties of about \$21 million per quarter if it fails to meet federal requirements for establishing a rebuttable presumption for the use of the state child support formula. Language to meet HHS criticisms of last year's legislation has been developed. (See Background Information.)

In a related matter, recent revisions in federal regulations also mandate that each state designate a central registry for interstate support orders. Under federal requirements, a state must use certain federal forms when petitioning another state to commence action under the Revised Uniform Reciprocal Enforcement of Support Act (RURESA), and send those forms to the other state's interstate central registry. Senate Bill 715 would establish Michigan's interstate central registry.

**CHILD SUPPORT FORMULA, REGISTRY**

Senate Bill 715 (Substitute H-1)  
First Analysis (9-19-90)

Sponsor: Sen. Christopher D. Dingell  
Senate Committee: Judiciary  
House Committee: Judiciary

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**THE CONTENT OF THE BILL:**

The bill would amend the Revised Uniform Reciprocal Enforcement of Support Act to:

- replace language allowing parties to agree to an amount of support different from the guideline amount. Instead, the bill would provide that the general requirement to use the child support formula would not prohibit a court from issuing a child support order that deviated from the formula, providing the parties agreed, the court determined that application of the formula would be unjust or inappropriate, and the court met the requirements for certain statements in writing and on the record. Rather than the "reasons for its determination," a court deviating from the formula would state the "reasons why application of the child support formula would be unjust or inappropriate in the case."
- designate the Office of Child Support within the DSS as Michigan's interstate central registry for receiving, forwarding, and responding to inquiries about interstate child support actions. The office would maintain a national list of interstate registries and provide it to every prosecutor's office and Friend of the Court (FOC) in the state. The office, acting as an interstate central registry, would process the documents for interstate enforcement of support orders. Various amendments would in effect replace a court-to-court network for processing orders with a registry-to-registry network; rather than petitioning the courts of another state for enforcement, a court would, with the approval of the initiating state, forward documents to the appropriate interstate registry, which would transmit the petition to the appropriate court(s) in that state. A person seeking to register an out-of-state support order with a court in Michigan would transmit the necessary paperwork through Michigan's central registry.
- require a state initiating interstate enforcement of support to use a completed forms package as required by federal regulation, and to send the forms to the responding state's central registry.
- authorize the FOC to receive and disburse child support payments from a payer in another state to a payee in Michigan in cases that did not constitute a formal interstate enforcement of support action under the act.

MCL 780.153a et al.

**HOUSE COMMITTEE ACTION:**

The House Judiciary Committee adopted a substitute bill that added the language regarding the presumptive use of the child support formula.

**BACKGROUND INFORMATION:**

The House substitute for Senate Bill 715 is one of several bills that would respond to federal requirements to change language providing for the presumptive use of the child

S.B. 715 (9-19-90)

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support formula. As of September 18, 1990, the other bills that are to be used to make the necessary amendments and the acts that they would amend) are House Bills 5286 (the divorce law), 5649 (the Paternity Act), 5650 (the Child Custody Act), and Senate Bills 902 (the Family Support Act), and 903 (the emancipation of minors act). These bills are themselves part of a nine-bill package to provide for child support past the age of 18; one of those bills, enrolled House Bill 5287, has already been enacted as Public Act 104 of 1990.

### **FISCAL IMPLICATIONS:**

According to the DSS, enactment of the amendments regarding the use of the child support formula would avert the loss of about \$21 million per quarter in federal funds. (9-17-90) According to the Senate Fiscal Agency, the remainder of the bill would have a minimal fiscal impact on the state and local units of government; the agency reports the State Court Administrative Office to have said that the bill would result in a minimal increase in administrative costs to the Friend of the Court. (3-20-90)

### **ARGUMENTS:**

#### **For:**

The bill would refine language, enacted last year in response to federal demands, that provided for the presumptive use of the child support formula in determining support amounts. The bill's changes would answer federal criticisms of that language and thereby help to preserve about \$21 million per quarter in federal funding.

#### **Against:**

Under the applicable federal regulations, a deviation from the child support formula would be allowed if strict adherence to the formula would be unjust or inappropriate, as determined under criteria established by the state. The regulations demand that the criteria be "based on the best interests of the child." As the bills do not incorporate this concept, they fall short of federal requirements.

**Response:** Criteria to allow deviations from the child support formula should not be based solely "on the best interests of the child," as that would make it virtually impossible to adjust payments downward, even temporarily, to accommodate unusual circumstances. The rules, which as yet are merely proposed rules, go beyond the underlying law, which does not require state criteria to be based on the best interests of the child. It may be that the rules will be modified in this respect; the bills do well to remain silent on the matter of the best interests of the child.

#### **For:**

The bill would statutorily establish Michigan's central registry for interstate enforcement of child support, and bring the Revised Uniform Reciprocal Enforcement of Support Act into compliance with federal regulations relating to the enforcement of out-of-state support orders. Implementation of the state central registry system nationwide will improve efficiency and effectiveness of interstate enforcement efforts.

### **POSITIONS:**

The Department of Social Services supports the bill. (9-18-90)

SFA BILL ANALYSIS

Senate Bill 715

Analysis Enrolled analysis (1.17.91)

See SB 698