

Written Testimony of Rebecca Shiemke
Michigan Advocacy Project
SB 99, 100, 105-107, HB 5501-5504
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I am Rebecca Shiemke, the family law attorney at Michigan Poverty Law Program. Michigan Poverty Law Program is the statewide support center for legal services program in Michigan. I am here today on behalf of the Michigan Advocacy Project (MAP). The Michigan Advocacy Project is a joint project between the Michigan League for Human Services (MLHS) and the Michigan Poverty Law Program. MAP advocates on behalf of the state's low-income population on issues in the areas of family law, elder law, housing and consumer protections.

For the most part, I have no objections to this package of bills intended to reform the initiation, collection and enforcement of support orders. However, a few provisions in Senate Bills 99 and 100 will have a negative impact on low-income individuals in Michigan and my comments are limited to those issues.

SB 99 (at page 9, lines 2-12) will permit the Friend of the Court to charge parties for the expense of conducting an investigation and making a report and recommendation. The provision does make an exception that where a suspension of fees is ordered the Office shall not charge the party according to the fee waiver. While the exception is appropriate, it excludes those who are not aware of their right to request a suspension of fees or those who may be denied a waiver but who are still unable to pay. This includes many pro se litigants who cannot afford to hire an attorney and are representing themselves. Further, this provision provides no insight regarding the potential cost of an investigation and no opportunity for parties who cannot afford the fee to "opt out" in the event the court orders the party to an investigation.

SB 99 (at page 10, lines 12-19) would eliminate the Friend of the Court's current obligation to collect and enforce spousal support orders with certain narrow exceptions.

Unfortunately, these exceptions fail to account for many low income parties who rely on spousal support for daily living. This modification of current law will make it difficult, if not impossible, for low income parties who are awarded spousal support to collect it if the Friend of the Court will no longer assist with enforcement. Now, the Friend of the Court has access to the tools necessary to enforce spousal support, including income withholding orders, employment data bases, license and tax information. Spousal support is ordered because it is necessary for the support of the spouse, who may have significant health issues, limited income, education or job experience. A litigant who cannot afford to hire an attorney or find a legal aid program with the resources to help with collection will suffer.

SB 100 (at page 14, lines 11-17) would make changes to the address notification provisions and require parties to provide a mailing address to the Friend of the Court and permits waiver of notices if a party fails to update a bad address. However, the bill would also permit the court to impose a fee if a party fails to comply with these notification requirements. This provision is objectionable, particularly where a remedy is already provided (a party waives notices) and will impact low income parties hardest.

SB 100 (at page 30, lines 13-14) would limit an income withholding order to 50% of a payer's disposable earnings. This provision would modify current law, which permits withholding pursuant to the federal Consumer Credit Protection Act and which could permit withholding up to 65% of income. While such a percentage of income withheld may be a hardship for payers, families who are not receiving court-ordered support are also suffering as a result of a payer's failure or refusal to pay support. The Court should have the option to collect a greater percentage of income where there is support owing.

I urge this committee to reconsider some of the harsh modifications to the duties of the Friend of the Court, especially those provisions that will hurt Michigan's poor and low income population at a time when many families are suffering financially.

