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CHILD SUPPORT REVISIONS: COMPLY WITH FEDERAL LAW

**House Bill 4816 as enrolled
Public Act 161 of 1999
Sponsor: Rep. Gene DeRossett**

**House Bill 4817 as enrolled
Public Act 150 of 1999
Sponsor: Rep. David Mead**

**House Bill 4818 as enrolled
Public Act 160 of 1999
Sponsor: Rep. Gary Woronchak**

**House Bill 4819 as enrolled
Public Act 159 of 1999
Sponsor: Rep. Mike Pumford**

**House Bill 4820 as enrolled
Public Act 158 of 1999
Sponsor: Rep. Joanne Voorhees**

**House Bill 4821 as enrolled
Public Act 157 of 1999
Sponsor: Rep. Gerald Law**

**House Bill 4822 as enrolled
Public Act 156 of 1999
Sponsor: Rep. Laura Toy**

**House Bill 4823 as enrolled
Public Act 155 of 1999
Sponsor: Rep. Marc Shulman**

**House Bill 4824 as enrolled
Public Act 154 of 1999
Sponsor: Rep. Mark Jansen**

**House Bills 4825 and 4826 as enrolled
Public Acts 153 and 152 of 1999
Sponsor: Rep. Doug Hart**

**House Bill 4827 as enrolled
Public Act 151 of 1999
Sponsor: Rep. Lauren Hager**

**House Committee: Family and
Children Services
Senate Committee: Families, Mental Health
and Human Services
First Analysis (1-3-00)**

THE APPARENT PROBLEM:

Public Acts 63-65, 82, 95, 96, 112, 113, and 330-334 of 1998 amended various acts, including those relating to the responsibilities of the friend of the court, the Office of Child Support, and the Family Independence Agency, to bring these agencies into compliance with Title III of the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, or PRWORA (42 USC 1305 et al, Public Law 104-193). The new laws were designed to set in motion uniform child support laws and to reduce federal spending. This was accomplished by consolidating many entitlement programs into a series of block grants to the states, and by modifying welfare and child support

programs. For example, the Temporary Assistance to Needy Families (TANF) program replaced the Aid to Families with Dependent Children (AFDC) program.

In order to receive block grants for such programs, states had to adopt or modify their child support enforcement programs to comply with federal law. The federal act also directed that each state establish a "single statewide automated data processing and information retrieval system," known as a "state disbursement unit," or SDU, to collect and disburse child support payments. Michigan has contracted with a private company, the Lockheed Martin Corporation,

House Bills 4816-4827 (1-3-00)

to operate an SDU system. However, the state has been sanctioned once for failing to establish a new child support enforcement system (CSES) by the deadline established under PRWORA, and if the SDU system is not placed in statute by October 1, 1999, it will again incur penalties. Consequently, legislation has been proposed that would amend the various acts relating to child support collection and disbursement to bring the state into compliance with federal law.

THE CONTENT OF THE BILL:

The bills would amend various acts to establish a centralized state collection and disbursement of child support and fees, or state disbursement unit (SDU). House Bill 4816 would amend the Office of Child Support Act to establish the program, and House Bills 4817 through 4827 would amend various acts to conform to the provisions of House Bill 4816. (The bills are said to bring the acts that would be amended into compliance with Section 454B of Part D of Title IV of the federal Social Security Act [42 USC 654b], which deals with child support matters, and would also delete archaic or obsolete language. For example, “alimony or support order” would be replaced with “spousal or child support order”.)

With the exception of House Bill 4827, which would amend the Revised Judicature Act, the bills would specify that the Family Independence Agency (FIA), the SDU, and each friend of the court (FOC) office would be required to cooperate in the transition to the centralized receipt and disbursement of support and fees. Also, each FOC office could continue to receive and disburse support and fees throughout the transition period, based on the schedule developed under the provisions of House Bill 4816. House Bill 4816 is tie-barred to House Bills 4817 and 4818; the other bills are each tie-barred to House Bill 4816.

House Bill 4816 would amend the Office of Child Support Act (MCL 400.231 et al.) to establish the state disbursement unit (SDU), as required under Part D of Title IV of the federal Social Security Act (42 U.S.C. 654b) as the single location to which a payer or source of income could send a support or fee payment. The SDU would be the direct responsibility of the state Office of Child Support (OCS). It would use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible to receive and disburse child support payments and fees.

Support Payments. The bill would specify that the SDU would have to disburse a payment to a recipient within two business days after receiving it. The bill would also specify that the SDU would have to disburse fees that it received to the appropriate county treasurer or office at least twice each calendar month. Interest that accrued on a payment after its receipt and before disbursement would be payable to the state general fund to offset program costs.

Support payments received by the SDU would be considered the property of the support recipient, would not be considered public revenue, and could not be deposited in the state treasury, nor be subject to levy, execution, garnishment, nor offset. The SDU could take actions to collect a support or fee payment amount plus an amount for expenses from the payer or source of income if a transaction failed due to nonsufficient funds.

Contractor. A contractor who operated the SDU would be directly responsible to the OCS. However, before entering into a contract, the office would have to receive approval of each contract provision governing the proposed accounting system from the state budget director, and, in addition to auditing by a private sector accounting firm, the contractor would be subject to audit by the state executive branch and by the auditor general, or by an independent public accounting firm appointed by the auditor general. The auditor general or the independent public accounting firm appointed by the auditor general would be required to conduct an audit of the SDU at least one year, and not less than two years, after the effective date of the bill. An audit would be conducted every two years after the initial audit.

The bill would specify that information regarding a support payer or recipient that had been provided to the SDU for receipt or disbursement of support or fees could not be disclosed, except in a manner authorized by law, rule, or regulation. A violation of this provision would be a misdemeanor, punishable by imprisonment for up to 93 days or a fine of \$500, or both. The bill would also specify that a contractor or subcontractor, or one of their employees that operated the SDU, who negligently disclosed information regarding a support payer or recipient would be liable for actual damages or \$1,000.00, whichever was greater, plus costs and attorney fees. Intentional disclosure would incur liability for three times the actual damages or \$3,000.00, whichever was greater, plus costs and attorney fees. In addition, each negligent or intentional disclosure that gave rise to

liability would be considered a separate cause of action for which separate damages could be awarded.

Transition Schedule. The FIA would be required to consult with other state and local agencies to develop a schedule for the transition to the SDU of receipt and disbursement of support and fees. The schedule could provide for the transition to take place in stages so that, during the transition period, the SDU was not responsible for all the payments of the payers and recipients whose cases were administered by a particular FOC office.

In accordance with the transition schedule and with the provisions of Section 9 of the Friend of the Court Act, a notification would be sent to the FOC office administering a case that the SDU would begin receipt and disbursement starting on the date specified in the notification. As of the date that SDU receipt and disbursement of support and fees applied to a particular support order, a provision in the order directing them to be paid to a FOC office would be considered as having directed the payments to the SDU.

House Bill 4817 would amend provisions of the Friend of the Court Act (MCL 552.502a et al.), concerning child support collection and disbursement procedures, to conform to the provisions of House Bill 4816. Under the bill, the Friend of the Court (FOC) office would continue to receive and disburse support order payments and service fees until the SDU was established in the geographic areas served by each office. The FOC would also maintain functions relating to support collection and disbursement, under a transition schedule, to facilitate the transition of that responsibility to the SDU. The bill would also amend the current definition of “support” to include the repayment of genetic testing expenses under the payment of expenses for a mother’s confinement that were ordered by the court under the provisions of the Paternity Act (MCL 722.711 et al.).

The bill would establish the following procedures:

*After SDU collection and disbursement had been implemented in a circuit court circuit, the office for that court could continue to accept a support payment made in cash, cashier’s check, or money order. However, the office would have to send the payment to the SDU and inform the payer that payments should be made through the SDU.

*Promptly after the bill’s effective date, each office would be required to establish and maintain support order and account records to enforce support order and

to record obligations; support collection and disbursements; fees; and related payments. Also, each office would have to provide the SDU with access to those records and assist the SDU with resolving support collection or disbursement problems related to inadequate identifying information.

*Currently the FOC must disburse support payments within 14 days of receipt. The bill would specify instead that the payments be disbursed within 14 days after receipt or within the federally mandated time frame, whichever was shorter.

House Bill 4818 would amend the Support and Parenting Time Enforcement Act (MCL 552.602 et al.).

House Bill 4819 would amend the divorce act (MCL 552.23).

House Bill 4820 would amend the Family Support Act (MCL 552.452 et al.). Currently, under the act, a court may enter an order for support payment, payable to the FOC, or require that a county receive service fees as reimbursement for the cost of enforcing support or parenting time orders. Under the bill, orders could require that payments be made to either the FOC or the SDU.

House Bill 4821 would amend the Paternity Act (MCL 722.711 et al.) to permit the court to require that a support payment be made to the FOC, the clerk of the court, or to the SDU, and to permit service fees paid to a county as reimbursement for the cost of enforcing support or parenting time orders to be paid to the FOC or the SDU.

House Bill 4822 would amend the Child Custody Act (MCL 722.22 and 722.27).

House Bill 4823 would amend the Revised Uniform Reciprocal Enforcement of Support Act (780.153b et al.).

House Bill 4824 would amend the Interstate Income Withholding Act (MCL 552.673 et al.).

House Bill 4825 would amend Public Act 379 of 1913 (MCL 552.152), which regulates defaults in support payments.

House Bill 4826 would amend Public Act 328 of 1931 (MCL 750.165), to restate current provisions concerning a default in a support payment for a spouse or for a child. Under the bill, an individual who defaulted in a payment would be guilty of a felony,

punishable by imprisonment for up to four years, a fine of up to \$2,000, or both, provided that the individual had been notified by personal service of the action to issue the support order. The court could suspend the sentence if the individual filed a bond in the required amount.

House Bill 4827 would amend provisions of the Revised Judicature Act (MCL 600.2538) concerning fees collected from persons required to make support payments by the FOC for services that are not reimbursable under the federal Social Security Act, to specify that the FOC or SDU must transmit 25 cents of each fee collected to the appropriate county treasurer. (Currently, the act specifies that, with the exception of the third circuit court, each fee collected must be sent to the county treasurer, who then credits 25 cents to the county's general fund and transmits the balance to the state.)

FISCAL IMPLICATIONS:

The House Fiscal Agency (HFA) estimates that the provisions of House Bill 4816 would result in indeterminate costs to the state. The bill would require the state to establish a state disbursement unit (SDU) for collecting and disbursing child support payments. The HFA notes that the state has entered into a contract with the Lockheed Martin Corporation to develop and operate the SDU at an estimated cost of \$107.8 million for fiscal years 1999-2004. Part of this cost is included in the fiscal year 1999-2000 Family Independence Agency (FIA) budget. The bill also specifies that the corporation, which would be directly responsible to the Office of Child Support (OCS), would have to be audited by the auditor general or by an independent public accounting firm appointed by the auditor general. This would also result in indeterminate costs.

The HFA estimates that the provisions of House Bills 4817 through 4827 would have no fiscal impact. (9-29-99)

An estimate by the Senate Fiscal Agency (SFA) indicates that House Bills 4816 through House Bill 4825 and House Bill 4827 would have an indeterminate fiscal impact on state funds. The SFA estimate notes that a five-year, \$107,579,000 contract was approved with the Lockheed Martin Corporation for the Child Support Enforcement System (CSES) during fiscal year 1998-99. In connection with this contract, \$33,418,300 was appropriated for fiscal year 1998-99 for the Child Support Distribution Computer System for the state disbursement unit (SDU) (including approximately \$11,362,200 from the General Fund/General Purpose

budget). This included a supplemental appropriation, under the provisions of Public Act 137 of 1999.

Approximately \$40 million will be available for SDU expenditures for fiscal year 1999-2000, since \$7,164,100 was appropriated for fiscal year 1999-2000 (including \$2,324,800 in General Fund/General Purpose funds) and \$32,905,100 was carried forward from fiscal year 1998-99. Therefore, approximately \$66 million will remain in the contract through fiscal year 2003-04 (\$107,579,000, less \$40,000,000). (10-13-99)

ARGUMENTS:

For:

The State Court Administrative Office (SCA) has worked with members of the House Family and Children Services Committee to formulate the proposed legislation and believes that it will meet the requirements of the federal Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) to establish a state disbursement unit (SDU). The state has entered into a contract with a private entity, the Lockheed Martin Corporation, to convert its current system for collecting and disbursing child support payments into a new automated, centralized, system within two years. Local friend of the court (FOC) offices will still be responsible for these duties until the SDU is implemented in the geographic areas served by each office. Once the SDU is fully established, FOC offices will cease to handle these particular duties, but will still be responsible for maintaining the support order and account records required to enforce obligations.

Supporters of the proposed SDU system maintain that sending support payments to one location will result in a much more efficient program. Currently, for example, a person who submits a support payment for a child or for a former spouse must send payments to the FOC office in the county where the recipient of the payment resided at the time the support order was issued. (Although there are 83 counties, there are only 64 FOC offices in the state, since a few offices cover more than one county. A case *may* be transferred at some point to an FOC office in another county, but this is rarely done. In most cases, records are maintained in the office where a recipient originally resided throughout the time he or she receives support payments). The FOC office records each payment and disburses it within 14 days. Under the new SDU system, it is intended that each support payment will be sent out within two business days after it is received.

It is hoped that the increased efficiencies brought about by the new system will eliminate many problems.

Response:

Some people have expressed concern over the fact that the contract with the Lockheed Martin Corporation has been entered into without the legislature's approval. In effect, the contract and the establishment of the new SDU system are *fait accompli*, and the introduction of the legislation is a mere formality that allows the legislature to ratify the agreement.

For:

Under the federal laws designed to establish uniform child support enforcement, every state in the country will eventually have an SDU system. This will be extremely beneficial for employers who must forward child support payments to the appropriate FOC office under programs that enforce support orders through paycheck withholding. For example, in testimony before the House Family and Children Services Committee, Meijer, Incorporated, a large Midwestern retailing firm with headquarters in Michigan, reported that it currently distributes approximately \$6 million in support checks to 218 various courts and agencies around the country. The company estimates that, after initial startup efforts, having one system will result in improved productivity, since less time will be consumed on calculating payments and on calls from custodial parents concerning late checks.

Against:

The federal government has required that states set up SDUs using "automated procedures, electronic processes, and computer-driven technology" to collect and disburse payments under support orders. Section 454b of the federal Social Security Act (42 USC 654b) also specifies that SDUs should be operated by state agencies or by contractors who are liable to the state agencies. However, concerns have been raised that -- by giving the employees of a private corporation access to FOC records that include the Social Security numbers of child support clients -- the privacy rights of these individuals would be violated.

Further, federal laws regarding the confidentiality of citizens' Social Security numbers are somewhat conflicting. For example, on a related issue, a 1998 attorney general opinion noted that Title 42, Chapter 7, of the federal Social Security Act (42 USC 1320b-7) requires states to have income and eligibility verification systems in place that contain certain information, such as Social Security numbers, to determine eligibility for specified federal benefits.

However, the attorney general opinion goes on to note that, even while the Social Security Act compels the disclosure of Social Security numbers, Section 405(c)(2)(C)(viii) of the act limits their use:

"(viii)(I) Social Security account numbers and related records that are obtained or maintained by authorized persons pursuant to any provision of law enacted on or after October 1, 1990, shall be confidential, and no authorized person shall disclose any such Social Security account number or related record."

The act defines "authorized person" to include, in addition to state employees, any person with access to Social Security account numbers, and, as noted, the federal act establishing state SDUs specifies that each SDU should be operated by a state agency or by a contractor. Since the law in question was enacted after 1990, it seems clear that the confidentiality requirements of the federal Social Security Act would apply to contractors. To further emphasize the importance of confidentiality, House Bill 4816 prohibits disclosure of any information from the records of payers and recipients, and penalties would be imposed for violations of the prohibition. Nevertheless, there is some concern that state agencies have traditionally established more extensive protections to safeguard confidential information than private companies, and that the same controls would not be imposed by the latter.

Against:

Some people fear that support checks will be delayed, and, as a result, children will go without food when the federal government's requirement to install new computer systems and create central offices for processing checks is put into effect. A recent news article (*Lansing State Journal*, November 5, 1999) reports on the problems experienced by other states that have made these changes to their disbursement systems. According to the article, computer programs have malfunctioned or clerks have failed to provide the proper information required for checks to be delivered in ten states. In Nevada, for example, the system's estimated price tag of \$22.6 million has risen to more than \$100 million. Moreover, the state's new computer system has resulted in thousands of checks being delayed. North Carolina, Florida, Tennessee, Hawaii, and Illinois are among the states named in the article as having also experienced delays in the payment of checks. In fact, according to the article, nearly \$5 million in emergency payments has had to be made in North Carolina. In Hawaii, checks were delayed so long that a class-action lawsuit was filed by parents who claimed the interest the state had earned on them.

It would make sense to train additional personnel to handle any problems that could arise with Michigan's proposed system. In fact, the provisions of a proposed amendment would have eased the fear of such a probability. The amendment would have required that the department hire an additional 200 child support specialists in conjunction with establishing the SDU. However, the amendment was not adopted.

Analyst: R. Young

■ 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.