

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4816 (Substitute H-3 as passed by the House)
House Bills 4817 through 4827 (Substitutes H-1 as passed by the House)
Sponsor: Representative Gene DeRossett (House Bill 4816)
Representative David Mead (House Bill 4817)
Representative Gary Woronchak (House Bill 4818)
Representative Mike Pumford (House Bill 4819)
Representative Joanne Voorhees (House Bill 4820)
Representative Gerald Law (House Bill 4821)
Representative Laura Toy (House Bill 4822)
Representative Marc Shulman (House Bill 4823)
Representative Mark Jansen (House Bill 4824)
Representative Doug Hart (House Bill 4825 & 4826)
Representative Lauren Hager (House Bill 4827)

House Committee: Family and Children Services
Senate Committee: Families, Mental Health and Human Services

Date Completed: 10-6-99

CONTENT

House Bills 4816 (H-3) through 4827 (H-1) would amend various acts to establish a State Disbursement Unit (SDU) for the centralized collection and disbursement of child support payments and fees, in compliance with Federal law. The SDU would replace the Friend of the Court (FOC) offices as the entity responsible for collecting and disbursing support payments, but the FOC offices would retain record-keeping responsibilities.

All of the bills also specify that the Family Independence Agency (FIA), the SDU, and each FOC office would be required to cooperate in the transition to the centralized system of receipt and disbursement of support and fees throughout the transition period, based on the schedule developed under House Bill 4816.

House Bill 4816 (H-3) would amend the Office of Child Support Act; House Bill 4817 (H-1) would amend the FOC Act; House Bill 4818 (H-1) would amend the Support and Parenting Time Enforcement Act; House Bill 4819 (H-1) would amend the divorce act; House Bill 4820 (H-1) would amend the Family Support Act; House Bill 4821 (H-1) would amend the Paternity Act; House Bill 4822 (H-1) would amend the Child Custody Act; House Bill 4823 (H-1) would amend the Revised Uniform Reciprocal Enforcement of Support Act; House Bill 4824 (H-1) would amend the Interstate Income Withholding Act; House Bill 4825 (H-1) would amend Public Act 379 of 1913, which facilitates the collection of alimony and child

support; House Bill 4826 (H-1) would amend the Michigan Penal Code; and House Bill 4827 (H-1) would amend the Revised Judicature Act.

House Bill 4816 (H-3) is tie-barred to House Bills 4817 and 4818; the other bills are all tie-barred to House Bill 4816.

House Bill 4816 (H-3)

State Disbursement Unit

The State Disbursement Unit would be established as the direct responsibility of the Office of Child Support within the Family Independence Agency. The SDU would have to use automated procedures, electronic processes, and computer-driven technology "to the maximum extent feasible, efficient, and economical to receive and disburse support and fees". The SDU would be the single location to which a payer or source of income would have to send a support or fee payment. The SDU would have to disburse a support payment to the recipient of support within two business days after it received the support payment. At least twice each calendar month, the SDU would have to disburse fees that it received to the appropriate county treasurer or FOC office.

If a payer or source of income attempted to make a support or fee payment to the SDU and the transaction failed due to nonsufficient funds, the SDU could take actions to collect the support or fee payment amount from the payer or source of income,

plus an amount for the expense of those actions.

Transition

Under the bill, the FIA would have to develop a schedule for the transition from receipt and disbursement of support and fees by FOC offices to a system of centralized receipt and disbursement by the SDU. The schedule could provide for the transition to take place in stages so that, during the transition period, the SDU was responsible for the receipt and disbursement of support and fee payments of less than all the payers and recipients of support whose cases were administered by a particular FOC office. In developing the schedule, the FIA would have to consult with other State agencies and with local agencies.

State Disbursement Unit receipt and disbursement of support and fee payments would apply to the case of a payer or recipient of support starting on the date specified in a notice to the FOC office that the SDU was prepared to receive and disburse support and fees for the case or for a class of cases to which that case belonged. As of the date that the SDU receipt and disbursement of support and fees applied to a particular support order, a provision of the order directing support and fees to be paid to an FOC office would be considered to direct the payments to the SDU.

Support Payments

While held by the SDU, money it received as a support payment would belong to the recipient of support, would not be public revenue, and could not be deposited in the State Treasury. While held by the SDU, money it received as a support payment would not be subject to levy, execution, garnishment, or offset. Interest that accrued on a payment after its receipt and before its disbursement would be payable to the State General Fund to offset program costs.

Contractor

If a contractor operated the SDU, the contractor would be directly responsible to the Office of Child Support. The Office could not enter a contract for the operation of the SDU until the State budget director approved each contract provision that governed the accounting system to be used by the contractor. In addition to auditing by a private sector accounting firm, a contractor operating the SDU would be subject to audit by the State executive branch and by the Auditor General or an independent public accounting firm appointed by the Auditor General. The Auditor General or an independent public accounting firm appointed by the Auditor General would have to conduct an audit of the SDU not less than one year, but within two years, after the

bill's effective date and at least every two years after that initial audit. The FIA would have to cooperate with the Auditor General.

Disclosure

Except for disclosure in a manner authorized by law, rule, or regulation, a person could not disclose information regarding a payer or recipient of support that was provided to the SDU for the purpose of receipt or disbursement of support or fees. A violation of this provision would be a misdemeanor punishable by up to 93 days' imprisonment, a maximum fine of \$500, or both. A contractor, officer, or employee of a contractor, that operated the SDU and who negligently disclosed information regarding a payer or recipient would be liable for actual damages or \$1,000, whichever was greater, plus costs and attorney fees. A contractor, officer, or employee of a contractor that operated the SDU and who intentionally disclosed information regarding a payer or recipient of support would be liable for three times actual damages or \$3,000, whichever was greater, plus costs and attorney fees. Each negligent or intentional disclosure that gave rise to liability under this provision would be a separate cause of action for which separate damages could be awarded.

House Bill 4817 (H-1)

The FOC Act requires FOC offices to receive payments of support orders and service fees and, not less than once each month, record support payments due, paid, and past due. The FOC offices must disburse support payments to the recipients of support within 14 days after the FOC office receives the payment. The bill would require disbursement within 14 days after receiving the payment or within the Federally mandated time frame, whichever was shorter.

Under the bill, an FOC office's responsibility for collecting and disbursing support payments and service fees would continue until the SDU implemented support and fee receipt and disbursement for the cases administered by that FOC office. At the direction of the FIA and in cooperation with the SDU, an FOC office would have to continue support and fee receipt and support disbursement to facilitate the transition of that responsibility to the SDU as directed in, and in accordance with, the transition schedule developed as required by House Bill 4816.

After SDU support and fee receipt and disbursement was implemented in a judicial circuit, the FOC office for that circuit court could accept a support payment made in cash or by cashier's check or money order. If the FOC office accepted that payment, it would have to transmit it to the SDU and inform the payer of

the SDU's location and the requirement to make payments through the SDU.

Promptly after the bill's effective date, each FOC office would have to establish and maintain the support order and account records that were necessary to enforce support orders and to record obligations, support and fee receipt and disbursement, and related payments. Each FOC office would have to provide the SDU with access to those records and assist the SDU to resolve support and fee receipt and disbursement problems related to inadequate identifying information.

House Bill 4818 (H-1)

Under the Support and Parenting Time Enforcement Act, "support" includes the payment of money ordered by the circuit court under the Paternity Act for the necessary expenses incurred by or for the mother in connection with her confinement, or for other expenses in connection with the mother's pregnancy. The bill would add "or for the repayment of genetic testing expenses" to that provision.

The Act provides that a notice of income withholding for support and fees entered under the Act must direct that income withheld be paid to the FOC office of the court in which the support order was entered, within three days after the date of withholding. The bill would require that the notice direct payment to be made to the FOC office or the SDU, as appropriate.

The Act requires a source of income to identify each withholding by certain identifying information. If the source of income is an employer, it also must provide its Federal employer identification number. The bill specifies that a source of income could meet these requirements through the use of an automated reporting system established by the SDU.

House Bill 4819 (H-1)

The bill would delete references to "alimony or support" in the divorce Act and replace them with references to "spousal or child support". The bill also would replace references to the "Department of Social Services" with references to the "Family Independence Agency".

House Bill 4820 (H-1)

The Family Support Act requires that a support order provide that all payments be made to the FOC. Under the bill, a support order would have to provide that payment be made to the FOC or the SDU.

The Act provides that, upon certification by the "county department of social services" that a custodial parent and/or child are receiving public assistance, payments received by the FOC for their

support must be transmitted to the "state department of social services". The bill would change "county department of social services" and "state department of social services" to "Family Independence Agency" and apply the requirement to payments received by the FOC or the SDU.

Under the Act, a court must order the payment of service fees to the FOC in order to reimburse a county for the cost of handling support payments. Under the bill, this requirement would apply to the payment of service fees to the FOC or the SDU for enforcing support or parenting time orders.

House Bill 4821 (H-1)

Under the Paternity Act, a court must require the payment of money to be made to the FOC or the clerk of the court, and those funds must be disbursed in accordance with the court order except that, upon certification by a "county department of social services" that a complainant is receiving public assistance, a payment received by the FOC for support and education of a child born out of wedlock must be transmitted to the "state department of social services". As with House Bill 4820 (H-1), the bill would require that the payments be made to the FOC or the SDU and replace references to the "department of social services" with references to the "Family Independence Agency".

In addition, the bill would require the court to order payment of service fees to the FOC or the SDU for enforcing support or parenting time orders, rather than requiring payment to the FOC for handling support payments.

House Bill 4822 (H-1)

Under the Child Custody Act, a court may require that support payments be made through the FOC or the court clerk. Under the bill, a court could require that support payments be made through the FOC, the court clerk, or the SDU.

House Bill 4823 (H-1)

The Revised Uniform Reciprocal Enforcement of Support Act mandates that a support order require payments to be made to the FOC office. Under the bill, support orders would have to require that payment be made to the FOC office or the SDU, as appropriate.

The Act allows the collection and disbursement duties of a Michigan court to be carried out through the FOC or the clerk of the court. Under the bill, those duties could be carried out through the FOC, the court clerk, or the SDU, as appropriate. The bill also would include the SDU in the responsibilities of the FOC as a recipient of support payments from an

out-of-state support order.

The bill would replace references to "alimony or support" with references to "spousal or child support".

House Bill 4824 (H-1)

Under the Interstate Income Withholding Act, the FOC office must "receive, record, disburse, and monitor" payments made pursuant to an order of income withholding issued under the Act. Under the bill, the FOC office would have to monitor, but not receive, record, or disburse those payments.

Under the Act, an order of income withholding must direct payment to be made to the FOC office, and the FOC must promptly transmit payments received pursuant to an order of income withholding based on a support order of another jurisdiction to the appropriately designated agency. The bill would apply that requirement to the FOC or the SDU, as appropriate.

House Bill 4825 (H-1)

Under Public Act 379 of 1913, when a decree or order requires payment to be made to the clerk of the court or the FOC, and payment is in default, the party prejudiced may make a motion showing by records in the clerk's or FOC's office that the default has occurred and the court may issue an order to arrest the party in default. The bill would include orders of payment to be made to the SDU within that provision.

House Bill 4826 (H-1)

The bill would delete and reenact, with updated language, a provision of the Penal Code making refusal to pay a support order a felony. Under the bill, it would be a felony, punishable by up to four years' imprisonment, a maximum fine of \$2,000, or both, for a person subject to a court order to pay support for his or her former or current spouse or for his or her child, to fail to pay the support in the amount or at the time stated in the order.

The felony provision would not apply unless the person ordered to pay support appeared in the action in which the support order was issued, or received notice of that action by personal service.

The court could suspend the sentence of a person convicted under the bill if he or she filed with the court a bond in the amount and with the sureties the court required. At a minimum, the bond would have to be conditioned on the person's compliance with the support order. If the court suspended a sentence under this provision, and the person did not comply with the support order or another condition of the bond, the court could order the person to appear and show cause why the court should not impose the

sentence and enforce the bond. After the hearing, the court could enforce the bond or impose the sentence, or both, or could permit the filing of a new bond and again suspend the sentence. The court would have to order a support amount enforced under the bill to be paid to the court clerk, the FOC, or the SDU.

House Bill 4827 (H-1)

Under the Revised Judicature Act, for services provided that are not reimbursable under Part D of Title IV of the Federal Social Security Act, every person required to make payments of support or maintenance to be collected by the FOC must pay a fee of \$1.25 per month for every month or portion of a month that support or maintenance is required to be paid. The bill would apply this requirement to people required to make payments of support or maintenance to be collected by the FOC or the SDU.

The Act requires that each fee collected be transmitted to the county treasurer and that, of each fee collected, the county treasurer credit 25 cents to the county's general fund and transmit the balance to the State Treasurer for deposit in the State Court Fund. The Act also provides that, in the Third Circuit Court (Wayne County), each fee collected must be transmitted to the State Treasurer, and that the Treasurer deposit 25 cents of each fee in the State General Fund and the balance of each fee in the State Court Fund. The bill would delete both those provisions, and specify instead that the FOC or the SDU would have to transmit 25 cents of each fee to the appropriate county treasurer for deposit into the general fund of the county, and transmit the balance to the State Treasurer for deposit into the State Court Fund.

- MCL 400.231 et al. (H.B. 4816)
- 552.502a et al. (H.B. 4817)
- 552.602 et al. (H.B. 4818)
- 552.23 et al. (H.B. 4819)
- 552.452 et al. (H.B. 4820)
- 722.711 et al. (H.B. 4821)
- 722.22 et al. (H.B. 4822)
- 780.153b et al. (H.B. 4823)
- 552.673 et al. (H.B. 4824)
- 552.152 et al. (H.B. 4825)
- 750.165 (H.B. 4826)
- 600.2538 (H.B. 4827)

Legislative Analyst: P. Affholter

FISCAL IMPACT

**House Bills 4816 (H-3)-4825 (H-1)
and 4827 (H-1)**

The bills would have an indeterminate fiscal impact on State government.

During FY 1998-99, the State Administrative Board approved a five year total contract of \$107,579,000 Gross for the Child Support Enforcement System for the Family Independence Agency with Lockheed Martin IMS to link State and county government child support activities. In connection with this contract, the FY 1998-1999 FIA appropriation for the Child Support Distribution Computer System, for SDU implementation, is \$33,418,300 Gross, and approximately \$11,362,200 GF/GP, which includes a supplemental appropriation (P.A. 137 of 1999). The FY 1999-2000 appropriation for SDU implementation is \$7,164,100 Gross, \$2,435,800 GF/GP. The net amount available for carry forward from FY 1998-1999 to the current fiscal year is approximately \$32,905,100 Gross. Therefore, gross funding available for FY 1999-2000 SDU expenditure could be \$40,069,200 Gross. Then approximately \$66,996,900 Gross could remain on the contract value for approximately four years, or through FY 2003-2004.

The bills would have an indeterminate fiscal impact on local government.

The local Friend of the Court offices could experience a reduction in costs due to the phase out of their responsibilities for collection and distribution of child support payments. However, the offices will maintain the local case records and experience related costs for that function.

House Bill 4826 (H-1)

The bill would have indeterminate fiscal impact on State and local government.

In 1997, there were four people committed to State prison for failing to support a wife or children with an average minimum sentence of 1.9 years. Assuming that the number of people committed to State prison for this offense would remain constant, and that each offender served the average minimum sentence, given that the average cost of incarceration is \$22,000 a year, the cost to incarcerate offenders accused of this crime would be \$167,200.

Fiscal Analyst: C. Cole
K. Firestone

S9900\4816sa

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.