

Legislative Analysis



CHILD SUPPORT AMNESTY PROGRAM

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House Bill 4654 as enrolled
Public Act 564 of 2004
Sponsor: Rep. Alexander C. Lipsey

House Bill 5259 as enrolled
Public Act 567 of 2004
Sponsor: Rep. John Stahl

House Bill 5262 as enrolled
Public Act 568 of 2004
Sponsor: Rep. Doug Hart

House Committee: Family and Children Services
Senate Committee: Families and Human Services

Third Analysis (2-8-05)

BRIEF SUMMARY: The bills would implement a child support amnesty program that would waive criminal penalties for overdue child support for a limited time if payers comply with the program.

FISCAL IMPACT: The fiscal impact of the bills on the state is likely to be insignificant.

THE APPARENT PROBLEM:

Child support payments are ordered to ensure that the needs of children are adequately provided for even after a child's parents are no longer together. In many cases, child support payments represent a significant portion of a family's income and, as a result, contribute greatly toward the self-sufficiency of families receiving support.

Despite the availability of numerous enforcement tools for use by the Office of Child Support, the several Friends of the Court, the attorney general's office, and local prosecutors in ensuring compliance with support orders, a large number of parents do not meet their financial obligations. According to the attorney general's office, 650,000 children in the state do not receive the amount of support ordered for them and, of those, 400,000 do not receive any support whatsoever. In addition, the cumulative arrearage in the state is more than \$7 billion, of which more than \$3 billion is owed to the state as a reimbursement for social services (family independence assistance). The attorney general's office notes that there are more than 17,000 cases throughout the state in which a parent owes more than \$50,000, and there are more than 40,000 cases in the state's six largest counties (Wayne, Oakland, Macomb, Kent, Genesee, and Ingham) in which more than \$40,000 is owed.

Given the importance of child support to families with children, as well as the increasingly large cumulative child support arrearage, legislation has been proposed aimed at encouraging the payment of overdue support through an amnesty program that would waive criminal penalties for a person who owes past-due support and complies with the amnesty program.

THE CONTENT OF THE BILLS:

The bills would provide for a child support amnesty program. All three bills have effective dates of June 1, 2005.

House Bill 4654 - Child Support Act

The bill would amend the Office of Child Support Act (MCL 400.233b) to provide for a child support arrearage amnesty program. The amnesty program, which would waive all criminal and civil penalties stemming from nonpayment of the required support, would be for a period of at least 90 days as set by the Office of Child Support, ending before seven months after the bill's effective date.

To be eligible for the amnesty program, the delinquent payer would have to make a written request for a waiver and make a payment in a lump sum for the entire amount of past support or in installments. In order to be eligible to pay past due support in installments, the payer would have to submit at least 50 percent of the past due support with the request for a waiver, and pay the remaining balance during the amnesty period.

A payer would not be eligible to participate in the amnesty program if, prior to seeking to participate, prosecution has been initiated under the Michigan Penal Code for the failure to pay child support or the payer has been arrested on criminal warrant or bench warrant related to the support obligation.

The Office of Child support would have to notify potential participants at least 60 days prior to the start of the amnesty program. The notice could be included in scheduled notices or posted on the Internet.

House Bill 5259 - Friend of the Court Act

The bill would amend the Friend of the Court Act (MCL 552.511) to prevent a local Friend of the Court office from initiating enforcement actions against a delinquent payer to collect a child support arrearage while the payer is complying with the child support amnesty program established by House Bill 4654.

House Bill 5262 - Michigan Penal Code

The bill would amend the Michigan Penal Code (MCL 750.161a) to specify prosecution could not be initiated against an individual for the failure or refusal to pay child support

while the individual is complying with the child support amnesty program established by House Bill 4654.

ARGUMENTS:

For:

The amnesty program is intended to encourage payers who have a child support arrearage to pay the ordered support without fear of civil and criminal penalties. While the numerous enforcement tools provided to the several Friends of the Court, prosecuting attorneys, the attorney general, and the office of child support can be useful in ensuring compliance with support orders, they are, nonetheless, often inadequate. This is clearly evidenced by the number of children that do not receive any or the full amount of the required support and the total amount of past due support. While harsh civil and criminal penalties for the failure to pay child support often “force” payers into compliance, they can also deter them from entering into the child support system. Payers with significant arrearages aren’t likely to voluntarily enter into the child support system if they face the prospect of jail time. This makes collection of support more difficult.

The amnesty program will bring delinquent payers back into the child support system. Once the payer contacts the local Friend of the Court or the Office of Child Support, a regular payment schedule, often through income withholding orders, can be established, thereby making it more likely that the payer will remain current in support obligations.

Moreover, the bills have another, largely unnoticed, consequence. Not only do the bills encourage payers to pay past support and remain current in their support obligations, they also encourage payers to remain active in the lives of their children. Once a payer accrues an arrearage, the likelihood of that payer staying involved in the life of a child is greatly diminished. The absence of the parent, particularly in the case of fathers, brings with it a host of other adverse consequences. If the amnesty program encourages payers to remain active in the lives of their children, that is a huge positive impact.

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