

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

Senate Bills 790 and 793 through 804 (as introduced 11-6-97)

Sponsor: Senator Joel D. Gougeon (Senate Bills 790, 802, and 804)  
Senator Robert Geake (Senate Bills 793, 797, 799, 800, and 801)  
Senator Virgil C. Smith, Jr. (Senate Bills 794 and 795)  
Senator Joe Conroy (Senate Bill 796)  
Senator Dale L. Shugars (Senate Bill 798)  
Senator Gary Peters (Senate Bill 803)

Committee: Families, Mental Health and Human Services

Date Completed: 11-12-97

## **CONTENT**

**Senate Bills 790 and 793 through 804 would amend various acts in regard to responsibilities of the Friend of the Court; interstate collection of support; inclusion of Social Security numbers of applications for driver's licenses, occupational licenses, and marriage licenses; suspension of recreational or sporting licenses for noncompliance with a support or parenting time order; admission of certain expenses in paternity proceedings; information contained on support orders; grounds for a hearing on income withholding; liens against property for unpaid support; sanctions for failure to pay support; responsibilities of the Office of Child Support; and development of a data matching system to identify assets of individuals liable for support. (The bills are said to bring the acts that would be amended into compliance with Title III of the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which deals with child support.)**

Senate Bills 794 and 795 are tie-barred to one another.

### **Senate Bill 790**

The bill would amend the Friend of the Court Act to authorize the Friend of the Court (FOC) to issue subpoenas, include court proceedings arising out of the Uniform Interstate Family Support Act in the FOC Act's definition of "domestic relations matter", and replace references to a custodial parent and an absent parent with references to a parent.

#### **Subpoenas**

The FOC or his or her designee could issue an

administrative subpoena to require a public or private entity doing business in Michigan to furnish information in the entity's possession that pertained to a parent and that was needed to establish, modify, or enforce a support order. The officers or employees of the entity would have to furnish the information within 15 days after the entity received the subpoena.

In the case of disobedience of an FOC request or subpoena for information, the FOC or his or her designee could petition the circuit court in the county in which the inquiry was made to require the production of books, papers, and documents. Any circuit court could, in the case of refusal to obey a subpoena or request for information, issue an order requiring the person or other entity to appear and to produce books, records, and papers if so ordered. Failure to obey the court order would be punishable by the court as contempt.

An employer, former employer, or other entity would not be liable under Federal or State law to a person or governmental entity for a disclosure of information to the FOC or for any other action taken by the employer, former employer, or other entity in good faith to comply with information disclosure provisions of the Act and the subpoena provisions of the bill.

### **Senate Bill 793**

The bill would amend the Uniform Interstate Family Support Act to provide new procedures for determining which order of a “tribunal” of this or another state would control, when there were more than one order. (Under the Act, “tribunal” means “a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or determine parentage”.)

The bill specifies that, if a responding state had not enacted the Uniform Interstate Family Support Act or a substantially similar law, a Michigan tribunal could issue a certificate or other document and make findings required by the law of the responding state. If the responding state were a foreign jurisdiction, the tribunal could specify the amount of support sought and provide other documents necessary to satisfy the responding state’s requirements.

Except as otherwise provided, the bill would require an employer who received an income withholding order issued by another state to withhold and distribute funds as directed in the order, by complying with the terms specified in the order as to the duration and amount; the entity designated to receive payments; medical support; the amount of periodic fees and costs for support enforcement; and the amount of periodic payments of arrearage and interest on arrearage. (The employer would have to comply with the laws of the state of the obligor’s principal place of employment as to the employer’s processing fee, the maximum amount allowed to be withheld, and the time within which the employer must implement withholding and forward the payments.)

The bill provides that an employer who complied with an out-of-state income withholding order would not be subject to civil liability for withholding child support from the obligor’s income. An employer who willfully failed to comply with an out-of-state income withholding order would be subject to the same penalties that would apply for noncompliance with a Michigan order.

The bill also would allow an obligor to contest the validity or enforcement of an out-of-state income withholding order in the same manner as if the order had been issued by a Michigan tribunal.

The bill would delete requirements that various notices be provided specifically by first-class mail.

### **Senate Bill 794**

The bill would amend the L.E.I.N. Policy Council Act to require that the policy and rules established by the Law Enforcement Information Network (LEIN) policy council ensure access to information contained in the LEIN by State and Federal agencies for enforcement of child support programs, as provided under State and Federal law.

### **Senate Bill 795**

The bill would amend the Michigan Vehicle Code to require that the Secretary of State’s record of applications for registration of motor vehicles be available to State and Federal agencies as provided under Senate Bill 794. (The Code requires that the Secretary of State create and maintain a computerized central file of all applications for registration of motor vehicles, and that the computerized central file be interfaced with the LEIN. The records must be preserved for three years after the date of registration.)

### **Senate Bill 796**

The bill would amend the Michigan Vehicle Code to require that all applications for an operator’s or chauffeur’s license include the applicant’s eye color and Social Security number, as well as other identifying information.

Currently, an application for an operator’s or chauffeur’s license requires the applicant’s full name, date of birth, address of residence, height, sex, eye color, and signature; an application for an operator’s or chauffeur’s license with a vehicle group designation or indorsement, however, does not require the applicant’s eye color and does not require his or her Social Security number. Under the bill, all applications for an operator’s or chauffeur’s license would require all of that identifying information, including the person’s eye color and Social Security number.

### **Senate Bill 797**

The bill would amend the Regulated Occupation Support Enforcement Act to provide that, in order to facilitate the Act’s enforcement and administration, an occupational regulatory agency would have to require each applicant for a license or renewal of a license to include his or her Social Security number on the application. An occupational regulatory agency could not issue or renew a license unless the applicant included his or her Social Security number on the application.

### **Senate Bill 798**

The bill would amend the Public Health Code to specify that the State Registrar would have to require that each applicant for licensure or registration in a health occupation or health profession include his or her Social Security number on the application.

The State Registrar also would have to require an applicant for a marriage license or other vital record to include his or her Social Security number on the application, and require the Social Security number of the decedent on each death registration.

In addition, the bill would require that the Department of Community Health, upon request, provide to an unmarried mother of a child or to a putative father an acknowledgment of parentage form that could be completed by the child's mother and father to acknowledge paternity, as provided in the Acknowledgment of Parentage Act. The Department also would have to provide to the mother and putative father information on the purpose and completion of the form and on the rights and responsibilities of parents. (The Code requires that the Department distribute to hospitals, free of charge, the acknowledgment of parentage form and the information on the form's purpose and completion and on parents' rights and responsibilities.) Execution of an acknowledgment of parentage form as provided in the Acknowledgment of Parentage Act would establish the child's legal paternity.

### **Senate Bill 799**

The bill would amend Public Act 128 of 1887, which requires a civil license in order to marry, to require that blank forms for a marriage license and certificate provide spaces for the entry of identifying information of the parties, including their Social Security numbers. (The Act requires that the State Registrar appointed by the Director of the Department of Community Health furnish the forms and registration books to county clerks; the forms must provide spaces for items prescribed in rules promulgated by the Director.)

### **Senate Bill 800**

The bill would amend the Natural Resources and Environmental Protection Act to require that the Department of Natural Resources (DNR) comply with an order for suspension of a recreational or sporting license issued under the Support and Parenting Time Enforcement Act (as it would be

amended by Senate Bill 803) within seven business days after receiving the suspension order. An order rescinding a suspension order issued under the Support and Parenting Time Enforcement Act would be effective upon its entry by the court and payment by the licensee of the customary reinstatement fee, if any, charged by the DNR. Within seven business days after receiving a rescission order and payment of the appropriate reinstatement fee, the DNR would have to reinstate the license of a licensee whose suspension order was rescinded. The DNR would have to send a notice of license reinstatement to the licensee upon reinstatement.

### **Senate Bill 801**

The bill would amend the Paternity Act to require the court to admit in a paternity proceeding bills for funeral expenses, expenses of the mother's confinement, and expenses in connection with the mother's pregnancy, without requiring foundation testimony. (The Act specifies that the parents are liable for the child's funeral expenses and that the father is liable to pay the expenses of the mother's confinement and expenses in connection with her pregnancy, as the court in its discretion considers proper.)

In addition, the bill specifies that if the Family Independence Agency (FIA) paid for the costs of genetic testing, the court could order repayment by the alleged father if it declared paternity. Documentation of the costs of genetic testing would be admissible as evidence of the amount incurred for those services, without foundation testimony.

Further, the bill would delete a provision of the Act that allows the judge in a paternity proceeding to make a judgment a lien upon the defendant's real property.

The bill also would delete a provision allowing either party in a paternity proceeding to demand a jury trial.

### **Senate Bill 802**

The bill would amend the divorce Act to specify that, if alimony or an education allowance for the children were awarded to either party in a divorce, the amount of the alimony or allowance would be a lien on the personal and real property of the adverse party as provided in the Support and Parenting Time Enforcement Act (pursuant to Senate Bill 803). Currently, those amounts

constitute a lien “as the court by its judgment shall direct”. That language would be deleted.

### **Senate Bill 803**

The bill would amend the Support and Parenting Time Enforcement Act to require that every support order include the name, address, and telephone number of a party’s source of income and a requirement that both the payer and payee inform the FOC of his or her Social Security number and driver’s license number. In addition, the Act requires that a support order include a requirement that the payer and payee keep the FOC informed if he or she holds an occupational license or driver’s license; the bill would include in that provision a recreational or sporting license and apply various license sanctions to recreational and sporting licenses in addition to occupational and driver’s licenses.

The bill would allow a payer who received notice of income withholding due to reaching a fixed arrearage amount to request a hearing only on ground that the withholding was not proper because of a mistake of fact concerning the amount of current or overdue support or the identity of the payer. (Currently, a payer may request a hearing on the “issue of whether the order of income withholding should take effect, in which case the order of income withholding shall be delayed pending the outcome of the hearing”; that provision would be deleted.)

The bill also would allow a court to fine a source of income when it found that source of income in contempt for failure to comply with a withholding order for support arrearage; and would include orders of dependent health care coverage in various provisions pertaining to withholding of support payments by a payer’s source of income.

The bill would require that, if a support arrearage accrued and there were reason to believe that the payer transferred real or personal property without fair consideration, the FOC initiate proceedings to have the transfer set aside as provided in the Uniform Fraudulent Conveyance Act or obtain a settlement in the form of full payment of the arrearage or in periodic repayments, as was possible in the best interest of the support recipient.

The bill specifies that an amount of past due support would constitute a lien against the real and personal property of a payer, in favor of the support recipient. The lien would be effective at the time that support was due and unpaid and continue until

the amount of past due support was paid in full or the lien was released by the support enforcement agency. Liens that arose in other states would have to be accorded full faith and credit if the requirements of the Act were met.

The bill would require that the FOC perfect a lien when arrearage accrued in an amount greater than the amount of periodic support payments payable for six months under the payer’s support order. The FOC would have to notify each payer of support subject to a support order of the imposition of liens by operation of law and that the payer’s real and personal property could be encumbered or seized if an arrearage accrued in an amount greater than six months’ periodic support payments. The FOC also would have to notify a payer when it perfected a lien against his or her real property for reaching the six-month arrearage amount. If a payer failed, within 21 days, to request a review on the lien and proposed action, to appear for a review, or to establish a mistake of fact, the FOC could collect the arrearage by levy upon the payer’s property, including an account at a financial institution.

The bill provides that, in addition to current sanctions, if a court found a payer in contempt of court for being in arrears and having the capacity to pay out of currently available resources, the court could order the payer to participate in a work activity as defined in Part A of Title IV of the Federal Social Security Act and could order the suspension of the payer’s recreational or sporting license. (Current applicable sanctions include commitment to county jail, with or without work release privileges; commitment of the payer to another penal or correctional facility that is not operated by the Department of Corrections; and suspension of an occupational or driver’s license.)

### **Senate Bill 804**

The bill would amend the Office of Child Support Act to expand the Office’s responsibilities and provide for the collection of information from financial institutions and other entities.

One of the Office’s responsibilities under the Act is to assist any governmental agency or department in locating an absent parent. Under the bill, that provision would require the Office to assist any governmental agency or department in locating a parent to do any of the following:

- Establish parentage.
- Establish, set the amount of, modify, or

- enforce support obligations.
- Disburse support receipts.
- Make or enforce child custody or parenting time orders.

The Act also requires the Office to develop guidelines for coordinating activities of any governmental department, board, commission, bureau, or agency in providing information necessary for the location of absent parents. The bill would include in that provision a governmental council or any public or private agency and would delete "absent".

The bill also would require the Office to develop and implement in cooperation with financial institutions and pursuant to law a data matching and lien and levy system to identify assets of and to facilitate the collection of support from the assets of individuals who had an account at a financial institution and who were obligated to pay support.

A financial institution would have to provide information pursuant to the data matching system developed under the bill. Information and records would include, but would not be limited to, all of the following:

- Information on the employment, compensation, and benefits of any individual employed as a current or former employee or a contractor of any entity, including for-profit, nonprofit, and governmental employers.
- Records of State and local government agencies, including vital statistics; State and local tax and revenue recording including information on residence address, employer, income, and assets; records on real and titled personal property; records of occupational, professional, recreational, and sporting licenses; records on the ownership and control of corporations, partnerships, and other business entities; employment security agency records; records of agencies administering public assistance programs; records of motor vehicles; corrections records; and records of workers' compensation.
- Records contained in the LEIN.
- Records of financial institutions.
- Records of public utilities and cable television companies.

The Director of the Office of Child Support or the Director's designee could issue an administrative subpoena to require an entity to furnish any

information or record in its possession that pertained to a parent and was demanded by the Office for administering or providing services under Part D of Title IV of the Social Security Act. The officers or employees of the entity would have to furnish the information or record within 15 days after the entity received the subpoena. An entity would not be liable to any person for any disclosure of information under the bill or for any other action taken in good faith to comply with the bill.

If an entity did not comply with a subpoena or request for information or records, the Director or his or her designee could petition the circuit court to require the production of books, papers, and documents. Any circuit court in the State could issue an order requiring compliance. Failure to comply would be punishable as contempt.

The Act specifies that information obtained by the Office is available only to a governmental department, board, commission, bureau, agency, or political subdivision of any state for purposes of administering, enforcing, and complying with the State and Federal laws governing child support. The bill would delete "only" from that provision and include a court of competent jurisdiction and the Federal government among the entities to which the information is available.

The bill would prohibit the Office from releasing information on a parent's address or other information to the other parent, if release were prohibited by a court order or if the Office had reason to believe that release of the information could result in physical or emotional harm to the parent or the child. The Office would have to notify the Federal government and courts of domestic violence or child abuse, pursuant to Part D of Title IV of the Social Security Act.

MCL 552.502 & 552.518 (S.B. 790)

552.1103 et al. (S.B. 793)

28.214 (S.B. 794)

257.221 (S.B. 795)

257.307 (S.B. 796)

Proposed MCL 338.3434a (S.B. 797)

MCL 333.2813 et al. (S.B. 798)

551.102 (S.B. 799)

324.43559 et al. (S.B. 800)

722.712 et al. (S.B. 801)

552.27 (S.B. 802)

552.602 et al. (S.B. 803)

400.231 et al. (S.B. 804)

Legislative Analyst: P. Affholter

## **FISCAL IMPACT**

### **Senate Bills 790, 793, 794, & 801-803**

The bills would have an indeterminate fiscal impact. There is no estimate on total additional costs or a projection on total additional revenue that would result from the bills.

Any new costs to local units of government that result from Federal requirements or implied Federal requirements are not State requirements under the Headlee amendment.

### **Senate Bill 795**

The bill would have no fiscal impact on State or local government.

### **Senate Bill 796**

Procedures for including the specified information on the application for a chauffeur's license are already in practice. The cost of making an application that included the applicant's Social Security number could be absorbed within current application-making costs. The amended provisions would not have any fiscal impact upon the State.

### **Senate Bill 797**

The bill would have no fiscal impact on State or local government.

### **Senate Bills 798 & 799**

The bills would result in an indeterminate increase in costs to State and local registrars. According to the Department of Community Health, if the intent of the bills is simply to maintain a paper record, then the increase in costs to the State would be approximately \$25,000 for revising and reprinting forms. If, however, the intent is to maintain the Social Security number in an electronic form, then there would be additional one-time costs of approximately \$45,000 to revise software and an annual increase in data entry costs of approximately \$5,000. Local registrars would experience similar increases in expense.

### **Senate Bill 800**

The bill would have no direct fiscal impact on State or local government.

### **Senate Bill 804**

The bill would have an indeterminate fiscal impact on State government. First, an increase in the

number of court cases could result from noncompliance with a subpoena for information. At this time it is not certain how many cases would result from noncompliance or how much each case would cost. Second, the Family Independence Agency is required by Federal law to enact these changes in State law. If the State does not have the changes enacted by January 1, 1998, the State may face certain financial penalties. The State may lose Federal funding for the child support programs, projected at \$119 million for FY 1996-97. In addition, the Federal funding for the families cash assistance program, which is projected at \$775 million for FY 1996-97, may also be at risk.

Fiscal Analyst: B. Bowerman  
E. Limbs  
M. Tyszkiewicz  
P. Graham  
G. Cutler  
C. Cole

### **S9798/S790SA**

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.