

Senate Fiscal Agency  
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**SFA**



**BILL ANALYSIS**

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House Bill 6004 (Substitute S-2 as passed by the Senate)  
House Bill 6005 (Substitute S-1 as passed by the Senate)  
House Bill 6006 (Substitute S-2 as passed by the Senate)  
House Bill 6007 (Substitute S-2 as passed by the Senate)  
House Bill 6008 (Substitute S-2 as passed by the Senate)  
House Bill 6009 (Substitute S-2 as passed by the Senate)  
House Bill 6010 (Substitute S-2 as passed by the Senate)  
House Bill 6011 (Substitute S-2 as passed by the Senate)  
House Bill 6012 (Substitute S-2 as passed by the Senate)  
House Bill 6017 (Substitute S-1 as passed by the Senate)  
House Bill 6020 (Substitute H-1 as passed by the Senate)

Sponsor: Representative Jim Howell (H.B. 6004)  
Representative Clark Bisbee (H.B. 6005)  
Representative James Koetje (H.B. 6006)  
Representative Andrew Raczkowski (H.B. 6007)  
Representative Doug Hart (H.B. 6008)  
Representative Barb Vander Veen (H.B. 6009)  
Representative Mark Jansen (H.B. 6010)  
Representative Laura Toy (H.B. 6011)  
Representative Bruce Patterson (H.B. 6012)  
Representative Jason Allen (H.B. 6017)  
Representative Joanne Voorhees (H.B. 6020)

House Committee: Civil Law and the Judiciary (H.B. 6004 - 6007)  
Family and Children Services (H.B. 6008 - 6012, 6017, & 6020)  
Senate Committee: Families, Mental Health and Human Services

Date Completed: 8-22-02

## **CONTENT**

**The bills would amend various acts to do all of the following:**

- Allow the Office of Child Support (OCS), within the Family Independence Agency (FIA), to centralize administrative procedures for child support enforcement services under Title IV-D of the Federal Social Security Act, and in Friend of the Court cases.
- Specify that the OCS centralized enforcement could include contracting with a collection agency.
- Allow the parties to a domestic relations matter to choose not to have the Friend of the Court (FOC) administer and enforce obligations imposed in the matter, except under certain circumstances.
- Specify procedures pertaining to a lien and levy against a support payer's financial assets.
- Revise judicial procedures for support order enforcement.
- Require the FOC to take certain actions in response to complaints alleging custody or parenting time order violations.
- Specify that, if the parties chose not to have the FOC administer and enforce obligations, then they would be responsible for administering and enforcing the domestic relations matter.
- Specify procedures for a joint meeting of the parties to a domestic relations matter to attempt to resolve a dispute.
- Revise provisions pertaining to makeup parenting time policies.
- Require a court to impose sanctions and assess costs if a party to a parenting time dispute acted in bad faith.

- **Establish FOC procedures for addressing complaints alleging violations of custody or parenting time orders and complaints concerning uninsured health care expenses.**
- **Assign to the FIA support payable for a child under the State's jurisdiction.**
- **Provide that, if a support payer resided full-time with a child, support payments for that child would be abated.**
- **Create an Office of Inspector General as a criminal justice agency within the FIA.**
- **Require the Bureau of Worker's and Unemployment Compensation to release information to the State's Title IV-D agency for use in establishing and enforcing support orders.**

(Title IV-D of the Federal Social Security Act requires states to have a program to secure child support from legal parents with the financial ability to pay. Each state must establish methods for locating absent parents, establishing paternity, and collecting child support payments. Title IV-D requires the state program to provide services to recipients of public assistance and to others, upon request.

The state agency that administers the child support program is designated as the Title IV-D agency. The OCS is Michigan's Title IV-D agency. The bills that would amend the Support and Parenting Time Enforcement Act, however, would define "Title IV-D agency" as the agency in Michigan performing the functions under Title IV-D, and would include a person performing those functions under contract, including an FOC office or a prosecuting attorney.)

House Bills 6004 (S-2), 6006 (S-2), 6007 (S-2), 6010 (S-2), and 6012 (S-2) would amend the Support and Parenting Time Enforcement Act; House Bill 6005 (S-1) would amend the Worker's Disability Compensation Act; House Bill 6008 (S-2) would amend the Office of Child Support Act; House Bills 6009 (S-2) and 6011 (S-2) would amend the Friend of the Court Act; House Bill 6017 (S-1) would amend the Social Welfare Act; and House Bill 6020 (H-1) would amend the Family Support Act. House Bills 6004 (S-2) and 6012 (S-2) are tie-barred to each other; House Bills 6009 (S-2) and 6011 (S-2) are tie-barred to each other;

and House Bill 6011 (S-2) also is tie-barred to House Bills 6008 and 6010.

All of the bills except House Bills 6006 (S-2), 6010 (S-2), and 6011 (S-2) would take effect on December 1, 2002. House Bills 6006 (S-2) and 6010 (S-2) both would take effect on June 1, 2003. The provision of House Bill 6011 (S-2) that would allow an opt-out from FOC administration and enforcement would take effect on December 1, 2002; the rest of the bill would take effect on June 1, 2003.

### **House Bill 6004 (S-2)**

#### Support Orders: Amounts Payable

The bill would require that all support orders be stated in monthly amounts payable on the first of each month, in advance. A support obligation not paid by the last day of the month in which it accrued would be considered past due. If a support order did not state the amount of support as a monthly amount, the support amount stated would have to be converted to a monthly amount using the formula established by the State Court Administrative Office. If a support order took effect on other than the first day of a month, the monthly amount would be prorated based on the daily amount for that month. A monthly support order amount would have to be prorated for the last month in which the order was in effect.

If payments under a support order were being made as required and there were no preexisting arrearages, the payer could not be considered as having an arrearage if a periodic temporary arrearage were created based on the conversion of a monthly payment order to an income withholding order or other payment schedule.

If the Title IV-D agency received a support payment that, at the time of receipt, exceeded a payer's support amount payable plus an amount payable under an arrearage payment schedule, the agency would have to apply the excess against the payer's total arrearage accrued under all support orders under which he or she was obligated. If a balance remained after that, the agency would have to disburse that amount to the support recipient immediately, if the payer designated the balance as additional support; retain the balance and disburse it to the support

recipient immediately when the amount was payable as support, if, at the time the payment was received, the payer were obligated for future support and the balance did not exceed the monthly support amount; or return the balance to the payer, if he or she were not obligated for future support or the balance exceeded the monthly support amount.

#### Lien & Levy against Financial Assets

The Act provides that the amount of past due support that accrues under a judgment or under the law of another state constitutes a lien in favor of the support recipient against the payer's real and personal property, other than financial assets pledged to a financial institution as collateral or financial assets to which a financial institution has a prior right of setoff or other lien.

The bill specifies that, if a payer's financial assets held by a financial institution were subject to a lien and an arrearage had accrued in an amount in excess of twice the monthly support payable under the support order, the Title IV-D agency could levy against the payer's financial assets held by a financial institution. To do so, the agency would have to serve the financial institution holding the assets with a notice of the lien and levy, directing the financial institution to freeze the assets.

The bill also provides that the Title IV-D agency could withdraw a levy at any time before the circuit court considered or heard the matter. The agency would have to give notice of the withdrawal to the support payer and the financial institution. Upon receiving that notice, the financial institution would have to release the payer's financial assets.

When a financial institution received a notice of levy on a support payer's financial assets, the institution would have to freeze those assets up to the levy amount. The institution then would have to give notice of its compliance to the Title IV-D agency, the support payer, and each other person with an interest in the financial assets.

A payer whose assets were levied on under the bill, or a person with an interest in those assets, could challenge the levy by submitting a written challenge with the Title IV-D agency

within 21 days after the financial institution sent notice of the levy. The agency would have to notify the financial institution about the challenge and, within seven days, review the case with the challenger to consider possible factual errors. If the agency determined that a mistake of fact had occurred, it would have to release the levy, correct the amount, or take other appropriate action. If the agency found no factual mistake, it would have to give notice of that finding to the payer or other person with an interest.

If the payer or other person disagreed with the agency's determination, the payer or other person would have 21 days to challenge the levy by filing an action in the circuit court that issued a support order that was a basis for the levy. The payer or other person would have to notify the agency of the action. If an action were not filed, the agency would have to direct the financial institution to act according to the agency's review determination. If an action were filed, the agency would have to direct the financial institution to act in accordance with the court decision.

If an action were filed in circuit court, the court could address only the issues of the propriety of the levy and whether the levy amount was correct. The court could not admit evidence or consider an issue that was related to custody, parenting time, or the amount of support under a support order unless that evidence was related to the levy against a payer's financial assets. The court could not modify a support order.

A financial institution that received a notice of levy would have to forward money in the amount of past due support to the State disbursement unit (SDU) within the Office of Child Support. If, after the money was forwarded, all of the money were returned to the payer due to a mistake of fact or a court order, the Title IV-D agency would have to reimburse the payer for a fee, cost, or penalty assessed against the payer by the financial institution. The agency also would have to compensate the payer for the amount of interest the financial assets would have earned if they had not been converted and forwarded to the SDU, to the extent that interest could be determined with a reasonable degree of certainty.

The bill specifies that a financial institution would incur no obligation or liability for complying with requirements of the bill.

#### **House Bill 6005 (S-1)**

The bill specifies that, despite the confidentiality provisions of the Worker's Disability Compensation Act, the Bureau of Worker's and Unemployment Compensation (which includes the former Bureau of Worker's Disability Compensation) would have to release information to the State's Title IV-D agency pursuant to Section 4 of the Office of Child Support Act. (That section requires a governmental entity, a public or private entity, or a financial institution to provide information or records that assist in the implementation of the OCS Act upon the request of the OCS or another state's Title IV-D agency.)

#### **House Bill 6006 (S-2)**

Under the Support and Parenting Time Enforcement Act, if a person is ordered to pay support and fails or refuses, and if an order of income withholding is inapplicable or unsuccessful, a support recipient or the FOC office may begin a civil contempt proceeding by filing a petition in the circuit court for an order to show cause why the delinquent payer should not be held in contempt. If the payer fails to appear in response to a show cause order, the court may issue a bench warrant requiring him or her to be brought before the court without unnecessary delay. Under the bill, if a payer failed to appear in response to a show cause order, the court would have to do one or more of the following:

- Find the payer in contempt for failure to appear.
- Find the payer in contempt for the reasons stated in the motion for the show cause hearing.
- Apply an enforcement remedy authorized under the Act or the FOC Act for the nonpayment of support.
- Issue a bench warrant for the payer's arrest requiring that he or she be brought before the court without unnecessary delay for further proceedings in connection with the show cause or contempt proceedings.
- Adjourn the hearing.
- Dismiss the order to show cause, if the court determined that the payer was not in contempt.

The Act provides that, in a bench warrant issued under this provision, the court must require the payer, upon arrest, to remain in custody until the hearing unless he or she deposits a bond or cash. The bill, instead, specifies that in a bench warrant, the court would have to decree that the payer was subject to arrest if apprehended or detained anywhere in the State and that the payer would have to remain in custody until the hearing unless he or she deposited a cash performance bond in an amount specified in the bench warrant.

The bill provides further that if a bench warrant were issued and the payer were arrested in any county in Michigan, he or she would have to remain in custody until there was a hearing or he or she posted an adequate performance bond. A payer who could not post bond would be entitled to a hearing within 48 hours, excluding weekends and holidays. At a hearing held after a payer deposited a cash performance bond, the issues to be considered would be limited to the payer's answer to the order to show cause and, if he or she were found in contempt, to further proceedings related to that contempt. If a hearing were not held within 48 hours, the court would have to review the amount of the bond, based on criteria prescribed in the Michigan Court Rules (MCR), to determine an amount that would ensure the payer's appearance and set a date for a hearing within the time limit prescribed in the MCR.

If a payer deposited a cash performance bond under the bill, the hearing date would have to be set within the time limit prescribed in the MCR. The issues to be considered would be limited to the payer's answer to the show cause order and, if the payer were found in contempt, to further proceedings related to his or her contempt.

The Act requires that the court determine how much of a bond or cash deposited under this provision is to be transmitted to the FOC or the State disbursement unit for payment to one or more recipients of support and that the balance of the cash or bond, if any, be returned to the payer. Under the bill, the court would have to determine how much of a cash performance bond would have to be transmitted to one or more support recipients and to the county treasurer for distribution required under the Revised Judicature Act.

(That Act requires certain fees collected under the Support and Parenting Time Enforcement Act to be deposited in the county's Friend of the Court Fund.) The balance, if any, would have to be returned to the person who posted the bond on the payer's behalf.

The Act specifies sanctions that may be imposed on a person who is found in contempt for being in arrears and either has the capacity to pay support or, by the exercise of diligence, could have the capacity to pay. The bill would include among those sanctions ordering the payer to participate in a community corrections program under the Community Corrections Act, if that sanction were within the court's jurisdiction.

### **House Bill 6007 (S-2)**

#### FOC Response to Complaint

The Support and Parenting Time Enforcement Act requires that an FOC office take certain actions in "a dispute concerning parenting time of a minor child". The bill would require the FOC to take the actions, instead, in response to an alleged custody or parenting time order violation in a complaint submitted pursuant to Section 11b of the FOC Act (which House Bill 6009 would add).

In the situations in question, an FOC office must do one or more of the following: apply a makeup parenting time policy; begin civil contempt proceedings; or petition the court for a modification of existing parenting time provisions. The FOC office may not invoke any of those options, however, if the parties resolve their dispute through either an informal joint meeting or domestic relations mediation. The bill, instead, would include scheduling mediation or scheduling a joint meeting in the list of actions that an FOC office could take in response to the complaint.

Under the bill, however, an FOC office could decline to respond to an alleged custody or parenting time order violation under any of the following circumstances:

- The complaining party had previously submitted two or more complaints that were found to be unwarranted, costs were against that party, and the party had not paid the costs.
- The alleged violation occurred more than

56 days before the complaint was submitted.

- The custody or parenting time order did not include an enforceable provision that was relevant to the alleged violation.

#### Joint Meeting

A joint meeting of the parties scheduled by the FOC in response to a complaint could take place in person or by means of telecommunications equipment. Only an individual who completed an FOC domestic violence training program could conduct a joint meeting.

At the beginning of a joint meeting, the individual conducting the meeting would have to advise the parties that the meeting's purpose was to reach an accommodation and that he or she could recommend an order that the court could issue to resolve the dispute. If the person conducting the meeting submitted a recommended order to the court, he or she would have to notify each party. The notice would have to include all of the following:

- A copy of the recommended order.
- Notice that the court could issue the recommended order resolving the dispute unless a party objected to it within 21 days after the notice was sent.
- The place and time a written objection could be submitted.
- Notice that a party could waive the 21-day objection period by returning a signed copy of the recommendation.

If a party objected within the 21-day period, the FOC office would have to set a court hearing, before a judge or referee, to resolve the dispute

#### Makeup Parenting Time

The Act requires that each judicial circuit establish a makeup parenting time policy under which a noncustodial parent who has been wrongfully denied parenting time is able to make up the parenting time at a later date. The bill would delete reference to a noncustodial parent, so that the makeup parenting time policy would apply to any parent wrongfully denied parenting time. The bill also would require that a makeup parenting time policy provide that the

wrongfully denied parent would have to notify both the FOC office and the other parent, in writing, not less than one week before using makeup weekend or weekday parenting time or not less than 28 days before using makeup holiday or summer parenting time.

The Act provides that, if wrongfully denied parenting time is alleged and the FOC determines that action should be taken in response to the allegation, the FOC office must send a notice to the custodial parent. Under the bill, notice would have to be given to each party. The Act requires that the notice contain a statement that failure to respond in writing within seven days is considered an agreement that parenting time was wrongfully denied and that a makeup parenting time policy will be applied. Under the bill, that statement would have to allow 21 days for a written response. The bill specifies that, if a party made a timely response to contest the application of makeup parenting time, the FOC office would have to take an action that could be taken in response to a complaint, other than the application of the makeup parenting time policy.

#### Sanctions & Costs

If the court found that a party to a parenting time dispute had acted in bad faith, the court would have to order the party to pay a sanction of up to \$250 for the first time, up to \$500 for a second time, and up to \$1,000 for a third or subsequent time. The money would have to be deposited in the county's FOC fund and be used to fund services that were not Title IV-D services. The court also would have to order the party who acted in bad faith to pay the other party's costs.

#### **House Bill 6008 (S-2)**

The Office of Child Support Act designates the Office of Child Support, within the Family Independence Agency, as the State agency authorized to administer Title IV-D and specifies other OCS responsibilities. Under the bill, the OCS would be required to do all of the following:

- Provide discovery and support for support enforcement activities as provided in the Support and Parenting Time Enforcement Act.

- Have in effect safeguards against the unauthorized use or disclosure of case record information that were designed to protect the privacy rights of the parties, as specified in Title IV-D, and that were consistent with the use and disclosure standards provided under the Social Welfare Act.
- As provided in the bill for FOC cases (described below), centralize administrative enforcement remedies and develop and implement a centralized enforcement program to facilitate support collection.

Based on criteria established by the OCS and the State Court Administrative Office (SCAO), the OCS could centralize administrative enforcement procedures for child support enforcement services provided under Title IV-D. The OCS also could centralize enforcement activities for FOC cases based on criteria it established with the SCAO. The criteria for centralizing enforcement activities for an FOC case would have to require, at least, that the FOC's support enforcement efforts had been unsuccessful and that the arrearage was equal to or greater than the amount of support payable for 12 months or equal to or greater than support payable for six months, if the support recipient requested centralization. Each FOC office would have to give the OCS information necessary for it to identify cases eligible for centralized enforcement and to pursue enforcement remedies.

The OCS's centralized enforcement could include a remedy available under the Support and Parenting Time Enforcement Act; contracting with a public or private collection agency; contracting with a public or private locator service; publishing a delinquent payer's name; or a local or regional agreement with a law enforcement agency or prosecutor. The OCS would have to process collections resulting from centralized enforcement. The OCS would have to notify a custodial parent if his or her FOC case were selected for centralized enforcement.

The bill states that it would not limit the OCS's ability to enter into agreements for child support enforcement with an FOC office, law enforcement agency, prosecutor, government unit, or private entity as that ability existed on the bill's effective date.

The OCS would have to submit to the Legislature an annual report regarding FOC cases assigned to a private collection agency for support collection under a contract with the OCS. For each collection agency assigned FOC cases, the report would have to include at least the total number of assigned cases, the total number of those cases in which a support payment was received, the total support collected for those cases, and the total support due for them.

(Under the FOC Act, pursuant to House Bill 6011 (S-2), the term "friend of the court case" would mean a domestic relations matter that an FOC office established as an FOC case as required by the bill. (The Act defines "domestic relations matter" as a circuit court proceeding as to child custody or parenting time, or child or spousal support, that arises out of litigation under a statute of this State.) The bill would require the FOC to open and maintain an FOC case for a domestic relations matter, but would allow the parties to opt-out of having an FOC case opened except under certain circumstances.)

### **House Bill 6009 (S-2)**

#### **Custody or Parenting Time Order Violations**

The bill would amend the Friend of the Court Act to require that an FOC office initiate enforcement under the Support and Parenting Time Enforcement Act if it received a written complaint stating specific facts constituting a custody or parenting time order violation. Upon request, an FOC office would have to assist a parent who had the right to interact with his or her child under a custody or parenting time order in preparing a complaint. If the facts stated in a complaint alleged a custody or parenting time order violation that could be addressed by an action authorized under the Support and Parenting Time Enforcement Act, the FOC office would have to proceed under that Act.

The FOC Act provides that, after a final judgment containing a parenting time order is entered in a domestic relations matter, if there is an unresolved dispute as to parenting time, the FOC office may petition the court for a modification of the order. A written report and recommendation must accompany the petition, and the FOC office must notify the parties of the proposed modification. The bill

specifies that, if no party objected to the recommendation for modification within 21 days after the FOC notified the parties, the FOC office could submit to the court an order incorporating the recommendation for the court's adoption. If a party objected within 21 days, however, the motion to modify the parenting time order would have to be noticed for a court hearing.

#### **Parenting Time Enforcement**

The bill would require that the FOC Bureau within the State Court Administrative Office, in consultation with the FIA's Domestic Violence Prevention and Treatment Board, develop guidelines for the enforcement of parenting time under Section 41 of the Support and Parenting Time Enforcement Act. (That section, as amended by House Bill 6007 (S-2), would require the FOC to take certain actions in response to an alleged custody or parenting time order violation stated in a complaint submitted under the FOC Act, pursuant to House Bill 6009 (S-2).)

The guidelines would have to take into consideration at least all of the following regarding the parties and each child involved in a custody or parenting time dispute:

- Domestic violence.
- The safety of the parties and the child.
- Uneven bargaining positions of the parties.

#### **Health Care Expense Complaints**

The bill would require that a complaint seeking enforcement for payment of a health care expense include information showing that the parent against whom the complaint was directed was in fact obligated to pay the child's uninsured health care expenses, a demand for payment had been made within 28 days after the insurer's final payment or denial of coverage, and the parent did not pay the uninsured portion within 28 days after the demand. The complaint also would have to show that it was submitted to the FOC office on or before certain qualifying dates.

If an FOC office received a complaint that met the bill's requirements, it would have to send a copy of the complaint to the parent named in it as obligated to pay the child's uninsured health care expenses. If, within 21 days after the complaint and notice were sent to a

parent, the parent did not file a written objection with the FOC office, the amount of health care expenses stated in the complaint would become a support arrearage subject to any enforcement processes available to collect an arrearage. If the parent filed a written objection with the 21-day limit, the FOC office would have to set a court hearing to resolve the complaint.

### **House Bill 6010 (S-2)**

On and after the bill's effective date, each support order the court entered or modified would have to include a provision that, if a child for whom support was payable were under the State's jurisdiction and were placed in foster care, support payable under the order would be assigned to the FIA. For an FOC case, an order also would have to state that 1) the FOC office could consider the person legally responsible for the child's actual care, support, and maintenance as the recipient of support and could redirect support paid for that child to that recipient, and 2) if the payer resided full-time with a child, support for that child would abate according to policies established by the State FOC Bureau. In an FOC case, a support order entered before the bill's effective date would be considered, by operation of law, to include those provisions.

If a child for whom support was payable under an order were under the State's jurisdiction and placed in foster care, support payable would be assigned to the FIA. An assignment of support to the FIA would have priority over a redirection of support authorized by the bill.

Support could not be redirected or abated until 21 days after the FOC office notified each party of the right to object to redirection or abatement. If a party objected within 21 days, support could not be redirected or abated. After an objection, the FOC office would have to review the support order or notify each party that he or she could file a motion to modify support.

### **House Bill 6011 (S-2)**

#### **Friend of the Court Opt-Out**

The bill would amend the Friend of the Court Act to require an FOC office to open and maintain an FOC case for a domestic relations

matter, except as otherwise required. If there were an open FOC case for a domestic relations matter, the office would have to administer and enforce the obligations of the parties to the case. If there were not an open FOC case for a domestic relations matter, the office could not administer or enforce an obligation of a party to the matter.

The bill specifies that the parties to a domestic relations matter would not be required to have an FOC case opened or maintained for their domestic relations matter. Each FOC office would have to inform each party to a domestic relations matter that, unless one of them was required to participate in the Title IV-D child support program, they could choose not to have the FOC office administer and enforce obligations imposed in the matter, and could direct the FOC office to close the FOC case that was opened in their domestic relations matter.

With their initial pleadings, the parties to a domestic relations matter could file a motion for the court to order that the FOC office not open an FOC case for that matter. The court would have to issue the order unless it determined one or more of the following:

- A party to the domestic relations matter was eligible for Title IV-D services because of his or her current or past receipt of public assistance.
- A party to the domestic relations matter applied for Title IV-D services.
- A party to the domestic relations matter requested that the FOC office open and maintain an FOC case for the matter, even though he or she might not be eligible for Title IV-D services because the matter involved, for example, only spousal support, child custody, parenting time, or child custody and parenting time.
- The domestic relations matter contained evidence of domestic violence or uneven bargaining positions and evidence that a party to the matter had chosen not to apply for Title IV-D services against the best interest of either that party or his or her child.
- The parties had not filed with the court a document, signed by each party, that included a list of the FOC services and an acknowledgment that the parties were choosing to do without those services.



If an FOC case were not opened, the parties to the domestic relations matter would have full responsibility for administering and enforcing the obligations imposed in the matter.

The bill also would allow the parties to an FOC case to file a motion for the court to order the FOC office to close the case. The court would have to issue the order unless it determined that one or more of the following applied:

- A party to the FOC case objected.
- A party to the FOC case was eligible for Title IV-D services because he or she was receiving public assistance.
- A party to the FOC case was eligible for Title IV-D services because he or she received public assistance and an arrearage was owed to the governmental entity that provided the assistance.
- The FOC case record showed that, within the previous year, a child support arrearage or custody or parenting time order violation had occurred in the case.
- Within the past year, a party to the FOC case had reopened an FOC case.
- The FOC case contained evidence of domestic violence or uneven bargaining positions and evidence that a party had chosen to close the case against the best interest of either that party or his or her child.
- The parties had not filed with the court a document, signed by each party, that listed the FOC services and acknowledged that the parties were choosing to do without those services.

The closing of an FOC case would not release a party from his or her obligations imposed in the underlying domestic relations matter. The parties to a closed FOC case would assume full responsibility for administering and enforcing obligations imposed in the underlying matter.

If a party to a domestic relations matter for which there was not an open FOC case applied for FOC services or public assistance, the FOC office would have to open or reopen the case. If the FOC did so, the court would have to issue an order that contained provisions required for an FOC case under the FOC Act and the Support and Parenting Time Enforcement Act.

If the parties to a domestic relations matter filed a motion not to open an FOC case, or to

close an existing case, the FOC office would have to advise the parties, in writing, as to the services the FOC would not be required to provide. The SCAO would have to develop and make available to FOC offices a form for this purpose, as well as a document for the parties to use.

#### Initiation of Enforcement Measures

The Act requires an FOC office to initiate enforcement measures under the Support and Parenting Time Enforcement Act when a fixed amount of arrearage equal to the amount of support payable for one month is reached. The bill specifies that an FOC office would not be required to initiate enforcement under that provision if one or more of the following circumstances existed:

- Despite the existence of the arrearage, an order of income withholding was effective and payment was being made in the amount required under that order.
- Despite the existence of the arrearage and even though an order of income withholding was not effective, payment was being made in the amount required under the support order.
- One or more support enforcement measures had been initiated and an objection to one or more of those measures had not been resolved.

The FOC Act also requires an FOC office to initiate enforcement measures when a parent fails to obtain or maintain health care coverage for his or her child, as ordered by the court. In addition, under the bill, the FOC would have to initiate enforcement when a person responsible for the actual care of a child incurred an uninsured health care expense and submitted to the FOC office a written complaint that met the requirements for such an expense, as proposed by House Bill 6009 (S-2).

The bill specifies that an arrearage that arose at the moment a court issued an order imposing or modifying support, because the order related back to a petition or motion filing date, would not be considered an arrearage for purposes of enforcement unless the payer failed to become current with support payments within two months after entry of the order.

Currently, for a custody or parenting time order, an FOC office may initiate enforcement proceedings upon its own initiative and must do so upon receiving a written complaint stating the specific facts alleged to constitute a violation, if the FOC office determines that there is reason to believe a violation of a custody or parenting time order has occurred. The bill would delete this provision.

### **House Bill 6012 (S-2)**

Under the Support and Parenting Time Enforcement Act, an order of income withholding in an ex parte interim support order takes effect following the expiration of 14 days after the order has been served on the opposite party, unless that party files a written object to the interim support order during that 14-day period. Under the bill, the order of income withholding would take effect after 21 days following service, unless the opposing party filed a written objection within that 21-day period.

In addition, the Act requires that the court suspend or terminate an order of income withholding under certain circumstances. Under the bill, the FOC office, rather than the court, would have to take that action. One of the circumstances triggering suspension or termination is that the location of the child and custodial parent cannot be determined for 90 days or more. Under the bill, suspension or termination of an income withholding order would be triggered, instead, if the child's and custodial parent's location could not be determined for 60 days or more and the FOC case were being closed.

Also, under the bill, a number of existing provisions would apply "for a friend of the court case".

### **House Bill 6017 (S-1)**

The bill would establish an Office of Inspector General as a criminal justice agency in the FIA. The inspector general's primary duty would be to investigate cases of alleged fraud within the FIA. The inspector general also would have to do the following:

- Investigate fraud, waste, and abuse in the programs administered by the FIA.
- Make referrals for prosecution and disposition of appropriate cases.

- Review administrative policies, practices, and procedures.
- Make recommendations to improve program integrity and accountability.

### **House Bill 6020 (H-1)**

The bill would amend the Family Support Act to provide that, if there were no dispute regarding a child's custody, the court would have to include in a support order specific provisions governing custody of, and parenting time for, the child in accordance with the Child Custody Act. If there were a dispute regarding custody or parenting time, the court would have to include in an order for support specific temporary provisions governing custody of, and parenting time for, the child. Pending a hearing on or other resolution of the dispute, the court could refer the matter to the FOC office for a written report and recommendation. In a dispute regarding child custody and parenting time, the prosecuting attorney would not be required to represent either party regarding the dispute.

MCL 552.602 et al. (H.B. 6004)  
418.230 (H.B. 6005)  
552.602 et al. (H.B. 6006)  
552.602 et al. (H.B. 6007)  
400.231 et al. (H.B. 6008)  
552.517d et al. (H.B. 6009)  
552.602 et al. (H.B. 6010)  
552.502 et al. (H.B. 6011)  
552.602 et al. (H.B. 6012)  
Proposed MCL 400.43b (H.B. 6017)  
MCL 552.452 & 552.458a (H.B. 6020)

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

#### **House Bill 6004 (S-2)**

The revision of procedures regarding liens would result in administrative savings. The additional number of license suspensions that would result from changing the arrearage threshold is not determinable. Interest reimbursements by the Title IV-D agency would depend on the amount of funds forwarded to the SDU by mistake.

**House Bill 6005 (S-1)**

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

**House Bill 6006 (S-2)**

The bill would have an indeterminate fiscal impact on local enforcement costs. The option of community corrections as an alternative to jail would result in savings.

**House Bill 6007 (S-2)**

The bill would result in administrative savings from making the process consistent and potentially reducing the number of cases before a judge. An indeterminate amount of additional revenue for the Friend of the Court Fund would result from new sanction provisions in the bill.

**House Bill 6008 (S-2)**

The bill would have an indeterminate fiscal impact on State government. The FIA currently provides discovery and support activities, safeguards against unauthorized use or disclosure of case record information, and contracts with other State agencies for collection of support as part of the State implementation of the Child Support Enforcement System in compliance with Federal laws and regulations. The inclusion of case identification, notification of case selection, and any fees associated with contracted collection services, as part of centralized enforcement, would be eligible for reimbursement with Title IV-D funds, making these costs Federally reimbursable at a level of 66%.

**House Bill 6009 (S-2)**

Statewide standards regarding uninsured health care expenses and disputes involving custody and parenting time would result in administrative efficiencies for Friend of the Court offices.

**House Bill 6010 (S-2)**

The bill would have an indeterminate fiscal impact.

**House Bill 6011 (S-2)**

The bill would have an indeterminate impact

on the State and local units of government. Standardization of criteria to opt out of the Friend of the Court system would result in a reduced caseload for local FOC offices. Revenue to the State and counties from service fees would decline based on the number of cases in which the parties opted out.

As of December 31, 2000, there were 837,364 active cases that included an order of child support. Service fees per case total \$39 annually. Of that amount, counties receive \$27 (69.2%) and the State Court Fund receives \$12 (30.8%). If 10% to 20% of cases opted out, the revenue loss would range from \$3.3 million to \$6.5 million.

The opt-out provision also would have an indeterminate impact on Federal incentive payments to the State, which are based on several performance factors regarding Friend of the Court cases. In FY 2000-01, the State received \$29.4 million in Federal incentive payments, of which an amount is also allocated to counties.

**House Bill 6012 (S-2)**

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

**House Bill 6017 (S-1)**

The bill would have no fiscal impact on State or local units of government. According to the opinion of the Auditor General in the January 2001 "Performance Audit of the Office of Inspector General and Related Complaint Referral and Disposition Processes", the bill would codify what is already in place at the Family Independence Agency.

**House Bill 6020 (H-1)**

The bill would have an indeterminate impact on filing fees, depending on the number of cases in which a separate custody case would not have to be filed.

Fiscal Analyst: Bill Bowerman  
Connie Cole

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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.

