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BILL ANALYSIS

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Senate Bill 588 (Substitute S-2)
Sponsor: Senator Robert Geake
Committee: Families, Mental Health and Human Services

Date Completed: 12-19-95

SUMMARY OF SENATE BILL 588 (Substitute S-2) as passed by the Senate:

The bill would amend the Support and Visitation Enforcement Act to provide that, if an employed support payer were in arrears and were found in contempt of court, the court could order the payer to submit to an electronic tether confining the payer to his or her home except during hours of employment, or could commit the payer to the county jail but allow him or her to go to and from his or her place of employment. The bill also would allow the court to correct the amount of support retroactively, if an individual who was required by the court to report his or her income to the court or the Friend of the Court Office intentionally failed to report, refused to report, or knowingly misrepresented that income. In addition, the bill would permit an order of income withholding or a modification of such an order to be served upon a source of income either by ordinary mail, as currently required, or by electronic means as agreed by the source of income and the Friend of the Court Office. The bill would take effect on June 1, 1996.

Currently, a court may find a payer in contempt if the court finds that he or she is in arrears and if the court is satisfied that the payer has the capacity to pay out of currently available resources all or some portion of the amount due under the support order. Upon finding a payer in contempt under this provision, the court may enter an order committing the payer to the county jail; committing the payer to the county jail with the privilege of leaving for the purpose of going to and returning from employment; or committing the payer to a penal or correctional institution in this State that is not operated by the State Department of Corrections. Under the bill, these options would apply if the payer were not employed when the court made the finding of contempt; in addition, the payer could be committed to jail but allowed to go and return in order to seek employment.

If the payer were employed when the court made the finding of contempt, the court would have to inform the office of the Friend of the Court of the payer's place of employment, and could enter one of the following orders:

-- An order committing the payer to the county jail with the privilege of leaving the jail, during the hours the court determined and under the supervision the court considered necessary, for the purpose of allowing the payer to go to and return from his or her place of employment.
-- An order requiring the payer to submit to an electronic tether, which would allow the payer to be away from his or her residence only during the hours of his or her employment, and during the times required to travel to and from that place of employment.

The Act also provides that a court may find a payer in contempt if the court finds that the payer is in arrears and the court is satisfied that, by the exercise of diligence, the payer could have the capacity to pay all or some of the amount due under the support order and has failed or refused to do so. Upon finding a payer in contempt under this provision, the court may enter an order committing the payer to the county jail with the privilege of leaving in order to go to and return from his or her place of employment or to seek employment. Under the bill, the court could enter such an order if the payer were not employed when the court made the finding of contempt. If the payer were employed at that time, the court would have to inform the Friend of the Court and could commit the payer to jail with the privilege of leaving the jail to go to and return from employment, or require the payer to submit to an electronic tether, as described above.

The bill would retain a requirement that a commitment continue until the amount ordered to be paid is paid, but would delete a provision that a commitment may not exceed 45 days for the first adjudication of contempt or 90 days for any subsequent adjudication of contempt.

Under the Act, if a payer is committed to jail and he or she violates the conditions of the court order, the court must commit the payer to the county jail without the privilege of attending or seeking employment for the balance of the period of commitment imposed by the court. The bill would extend this requirement to a payer who was committed to electronic tether and violated the conditions of the court order.

Currently, if a payer is committed to jail and fails to return within the time prescribed by the court, the payer is considered to have escaped from custody and is guilty of a misdemeanor, punishable by imprisonment for up to one year. Under the bill, this also would apply to a payer who was committed to electronic tether and failed to return to his or her residence as prescribed by the court order.

MCL 552.633 et al.   Legislative Analyst: S. Margules

FISCAL IMPACT

The bill would have no fiscal impact on the court. The procedures outlined in the bill are currently executed.

The bill would have an indeterminate fiscal impact on local jails and no impact on the Department of Corrections. The added provisions for allowing violators to be placed on electronic tether could result in increased local supervision, equipment, and monitoring costs depending on the number of offenders involved, and the type of tether system used (i.e., leased, owned and operated, contracted, etc.). These costs could be offset by participant fee collections, if imposed by the judge. For example, electronic tether participants (for the most part felons) supervised by the Department of Corrections are generally expected to pay $6.50 per day for tether participation.

<div align="right">Fiscal Analyst: M. Bain
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