



Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5384 (Substitute H-1 as passed by the House)
House Bills 5385, 5386, and 5387 (as passed by the House)
House Bill 5388 (Substitute H-1 as passed by the House)
House Bill 5389 (Substitute H-1 as passed by the House)
Sponsor: Representative Lyn Bankes (House Bill 5384)
Representative Sharon Gire (House Bill 5385)
Representative Michelle McManus (House Bill 5386)
Representative Mike Green (House Bill 5387)
Representative Sandra Hill (House Bill 5388)
Representative Eric Bush (House Bill 5389)
House Committee: Human Services
Senate Committee: Families, Mental Health and Human Services

Date Completed: 4-18-96

CONTENT

House Bills 5384 (H-1) and 5386 through 5389 (H-1) would amend various acts to provide for the suspension of an occupational license or a driver's license for failure to pay a support arrearage or to comply with court-ordered visitation. House Bill 5385 would create the "Regulated Occupation Support Enforcement Act" to require an occupational regulatory agency to comply with a license suspension order.

Following is a more detailed description of the bills.

House Bill 5384 (H-1)

The bill would amend the Support and Visitation Enforcement Act to allow the Office of the Friend of the Court (FOC) to send a payer a notice of intent to order the suspension of the payer's occupational license if all other following circumstances were true:

- An arrearage had accrued in an amount greater than the amount of periodic support payments payable for three months under the payer's support order.
- The payer held an occupational license, or the payer's occupation required an occupational license.
- An order of income withholding was not applicable or had been unsuccessful in

assuring regular payments on the support obligation and on the arrearage.

"Occupational license" would mean a certificate, registration, or license issued by an occupational regulatory agency that allowed an individual legally to engage in a regulated occupation or that allowed the individual to use a specific title in the practice of an occupation, profession, or vocation. "Occupational regulatory agency" would mean a State department, bureau, or agency that had regulatory authority over an individual issued an occupational license.

The notice would have to contain the following information:

- The amount of the arrearage.
- That the payer's occupational license could be subject to an order of suspension.
- That the suspension order would be entered and sent to the occupational regulatory agency that issued the license unless the payer responded by paying the arrearage or requesting a hearing within 21 days after the date the notice was mailed.
- That at the hearing the payer could either suggest to the court a schedule for the payment of the arrearage, or object to the proposed suspension based on a mistake of fact concerning the overdue support amount or the payer's identity.

- That, if the payer believed that the amount of support ordered should be modified due to a change in circumstances, the payer could file a petition with the court for modification of the support order.

Within 21 days after the date on which the notice was mailed to a payer, the payer could request a hearing on the proposed suspension. If the payer requested the hearing, entry of the suspension order would have to be delayed pending the outcome of the hearing. The court would have to hold the hearing within 30 days after the date of the payer's request.

If a payer filed a petition for modification of the support order and the petition were pending at the date scheduled for a hearing on a license suspension, the court would have to consolidate the hearing on the license suspension and a hearing on the petition for modification unless the court found for good cause shown on the record that the hearings should be held separately.

If the court determined that the payer had accrued an arrearage on his or her support order and that the payer had, or by the exercise of due diligence could have, the capacity to pay all or some portion of the amount due, the court would have to order the payment of the arrearage in one or more scheduled installments of a sum certain.

After 21 days after the notice of intended license suspension was sent, the court could order the suspension of the payer's occupational license if the payer failed to comply with an arrearage payment schedule, or if the payer failed to pay the arrearage and failed either to request a hearing or to appear for a hearing scheduled after such a request.

If the court ordered a suspension of an occupational license for failure to pay an arrearage, the order would have to indicate that the occupational regulatory agency would have to suspend the license within seven business days after receiving the suspension order. The Office of the FOC would have to send a copy of the suspension order to the regulatory agency that issued the license. If the payer were the subject of a suspension order and had failed to respond in any manner to the notice of suspension, the Office of the FOC could not send the suspension order to the regulatory agency until at least 14 days after the date the Office first attempted service of a copy of the order on the payer by personal service

or by registered or certified mail, return receipt requested, with delivery restricted to the payer.

After entry of a suspension order, a payer could agree to, and the court could order, a schedule for the payment of the arrearage. If the court ordered a schedule for payment, it would have to enter an order rescinding the suspension order that was effective as provided in the Regulated Occupation Support Enforcement Act. Within seven business days after entry of the order rescinding the suspension order, the Office of the FOC would have to send a copy of the order rescinding the suspension order to the regulatory agency.

The Act specifies that if the court finds a payer in contempt of court, the court immediately may enter one of several orders committing the person to a county jail or a penal or correctional facility that is not operated by the Michigan Department of Corrections. The court may find a payer in contempt of court if it finds that the payer is in arrears and has the capacity to pay out of currently available resources all or part of the amount due under the support order. The payer also may be found in contempt if the court finds that the payer, by the exercise of diligence, could have the capacity to pay under the support order and has failed or refused to do so. The bill would give the court the additional option of conditioning the continuation of a payer's occupational license upon compliance with an order for payment of the arrearage in one or more scheduled installments of a sum certain. If the court entered an order concerning the conditions of a payer's occupational license and the payer failed to comply with the arrearage payment schedule, the court would have to order suspension of the payer's occupational license.

The Act currently states that if the Office of the FOC determines that action should be taken under the Act's provisions concerning sanctions for visitation violations, the Office is required to begin a civil contempt proceeding to resolve a dispute concerning visitation of a minor child by filing with the circuit court a petition for an order to show cause why either parent who has violated a visitation order should not be held in contempt. The bill would extend this requirement to determinations by the Office that application of a makeup visitation policy was unsuccessful in resolving a visitation dispute. The bill also would require the Office to notify the parent who was the subject of the petition. The notice would have to include at least a list of each possible sanction if

the parent were found in contempt, and the right of the parent to a hearing on a proposed modification of visitation if requested within 14 days after the date of the notice.

The Act currently states that if the court finds that either parent has violated a visitation order, the court can find that parent in contempt and can take various actions including entering orders, requiring additional terms and conditions consistent with the visitation order, and incarcerating the parent. The bill would give the court the additional option of ordering that the continuation of the parent's occupational license be conditional upon compliance with an order for makeup and ongoing visitation. If the court entered such an order, and the parent failed to comply with the makeup and ongoing visitation schedule, the court would have to find the parent in contempt and, after notice and an opportunity for a hearing, could order suspension of the parent's occupational license.

After entry of a suspension order, a parent could agree to a makeup visitation schedule. The court could order a makeup visitation schedule if the parent demonstrated a good faith effort to comply with the visitation order. If the court ordered a makeup visitation schedule, it would have to enter an order rescinding the suspension order that was effective as provided in the Regulated Occupation Support Enforcement Act. The Office of the FOC would have to send a copy of the order rescinding the suspension order for failure to comply with visitation orders to the regulatory agency and, as with license suspensions resulting from failure to pay arrearages, the parent could request, and the court would be required to hold, a hearing.

The bill would prohibit a source of income from using the suspension of an occupational license as the basis for refusing to employ, discharging, taking disciplinary action against, or imposing a penalty against a payer unless the suspended license were legally required for the payer's performance of the job. The bill specifies that the Act would not prevent a source of income from refusing to employ or discharging an individual whose occupational license was suspended if that license were a necessary predicate to engaging in that occupation, vocation, or profession.

The bill also would require support orders to require payers and payees to keep the Office of the FOC informed if they held an occupational license.

The bill is tie-barred to House Bills 5385, 5386, and 5387.

House Bill 5385

The bill would create the Regulated Occupation Support Enforcement Act to require an occupational regulatory agency to comply with a license suspension order issued as provided in the Support and Visitation Enforcement Act within seven business days after receiving the suspension order. "Occupational regulatory agency" would mean a department, bureau, or agency of this State that had regulatory authority over a regulated occupation.

An order rescinding a suspension order issued under the Support and Visitation 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 occupational regulatory agency. Unless the license were otherwise suspended, revoked, or invalid, the license immediately would have to be reinstated and valid. The occupational regulatory agency would have to reissue the license of a licensee whose suspension order was rescinded within seven business days after receiving the rescission order and payment of the appropriate reinstatement fee. An occupational regulatory agency would have to send a notice of the license reinstatement to the licensee upon reinstatement.

"Regulated occupation" would mean an occupation, profession, or vocation that required a license as a predicate for the practice of the occupation, profession, or vocation or that provided for the use of a specific title in the practice of the occupation, profession, or vocation. "License" would mean a certificate, registration, or license issued by an occupational regulatory agency that allowed an individual either to engage in a regulated occupation or to use a specific title in the practice of an occupation, profession, or vocation.

House Bill 5385 is tie-barred to House Bills 5384 and 5386.

House Bill 5386

The Administrative Procedures Act requires agencies to give licensees subject to license sanctions the opportunity to show compliance with

all lawful requirements of the license before the beginning of proceedings for suspension, revocation or other license sanctions. The bill specifies that this opportunity to show compliance provision would apply except as otherwise provided in the Support and Visitation Enforcement Act and the Regulated Occupation Support Enforcement Act.

The bill is tie-barred to House Bills 5384 and 5385.

House Bill 5387

The bill would amend the Revised Judicature Act to specify that a license to practice law in Michigan would be subject to suspension as provided in the Support and Visitation Enforcement Act and in the Regulated Occupation Support Enforcement Act.

The bill is tie-barred to House Bills 5384, 5385, and 5386.

House Bill 5388 (H-1)

The bill would make the same changes to the Support and Visitation Enforcement Act as those proposed by House Bill 5384 (H-1) except that House Bill 5388 (H-1) would apply to suspensions of driver's licenses, rather than occupational licenses. The bill is tie-barred to House Bill 5389.

House Bill 5389 (H-1)

The bill would amend the Michigan Vehicle Code to require the Secretary of State to comply with a license suspension order issued under the Support and Visitation Enforcement Act and to suspend the driver's licensee of a licensee within seven business days after receiving the suspension order.

Upon being informed of a suspension, the Secretary of State could not issue a license to a person whose license was already suspended, revoked, or denied, or who did not have a license to suspend, until the person complied with other provisions of the Code.

An order rescinding a suspension order issued under the Support and Visitation Enforcement Act would be effective upon its entry by the court and payment by the licensee of the reinstatement fee. Unless the license were otherwise suspended, revoked, or invalid, the license immediately would have to be reinstated and valid. The Secretary of State would have to reissue the driver's license of a licensee whose suspension order was rescinded

within seven business days after receiving an order rescinding the suspension order and payment of the reinstatement fee.

A person whose driver's license was suspended would have to pay a license reinstatement fee of \$85 to the Secretary of State before a license was issued or returned to the person. The fee would have to be deposited in the State General Fund and used to defray the expenses of the Secretary of State in processing the suspension and reinstatement of drivers' licenses.

The bill would take effect 180 days after it was enacted. The bill is tie-barred to House Bill 5388.

MCL 552.602 et al. (H.B. 5384)

24.292 (H.B. 5386)

Proposed MCL 600.909 (H.B. 5387)

MCL 552.602 et al. (H.B. 5388)

257.320e et al. (H.B. 5389)

Legislative Analyst: L. Burghardt

FISCAL IMPACT

The bills would add to the administrative duties of the Friend of the Court, but would have no significant fiscal impact on the courts.

The bills allow the departments to charge their customary reinstatement fees for those licensees affected. This increased revenue should cover any additional cost incurred by the departments. There is no estimate as to the number of licenses that could be suspended under these bills.

The bills would have an indeterminate fiscal impact on the Family Independence Agency (FIA) (formerly the Department of Social Services (DSS)) budget. The FIA Office of Child Support Enforcement would incur some increased costs, but the Senate Fiscal Agency is unable to determine exactly what they would be at this time. Information regarding an occupational license would need to be incorporated into the support enforcement data collection system for each affected child support payer. The capability to match information on licenses with the Department of Commerce would be needed to enhance enforcement. Also, Child Support Enforcement System staff would need some specific training on system changes, but this cost may not be significant. The FIA Family Independence Program (FIP) (formerly the Aid to Families with Dependent Children (AFDC)) program could incur some program savings from increased support

collections from payers whose families are State welfare recipients. An increase in arrearage collections currently received as a result of increased enforcement through possible license suspension would offset assistance program expenditures. At this time it is not possible to determine how many license holders are child support payers with outstanding support payments. However, the FIA could be requested to monitor the impact of the bills and report to the Legislature.

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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.