

**FOC: ELECTRONIC COLLECTION
AND DISBURSEMENT OF SUPPORT
PAYMENTS**

**House Bill 4655 as passed by the House
Second Analysis (12-16-97)**

**Sponsor: Rep. Ilona Varga
Committee: Judiciary**

THE APPARENT PROBLEM:

Currently, payments of child or spousal support are made through the office of the friend of the court. A support payment is sent to the friend of the court, usually from the payer's employer, and then the friend of the court, after recording the payment, sends the payment on to the payee. This means of transferring funds is a slow and costly process. Often, for whatever reason (the friend of the courts' workload, the recording requirements, etc.) the delay between the friend of the court's receipt of the support payment and its disbursement of the support payment is significant enough for the payer to mistakenly appear to be in arrears. It has been suggested that the process of collecting, recording, and then disbursing support payments could be expedited by using electronic means to accomplish the transfer and recording of the payments.

Furthermore, under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each state will be required to use automated procedures, electronic processes, and computer driven technology to the maximum extent feasible, efficient, and economical for the collection and disbursement of support payments by October 1, 1998. Legislation has been introduced to bring the state's friend of the court offices into compliance with the federal law and to help speed up the process and decrease the costs of receiving and transferring support payments.

THE CONTENT OF THE BILL:

House Bill 4655 would amend the Friend of the Court Act to require the friend of the court to use electronic funds transfer to receive and disburse support payments to the fullest extent possible, provided that the use of such means was cost effective and efficient. If the use of electronic funds transfer was not cost effective and efficient for either the office of the friend of the court or for the specific case or family such transfer would not have to be used. Further, electronic funds transfer

would not be required if the payee showed that the use of

electronic funds transfer would create a substantial likelihood that the benefit of the money would not be received a child for whom the support was intended.

In addition, the friend of the court office would be required to inform each person who received support how he or she could request that support be distributed in a manner other than electronic funds transfer, as well as the criteria for granting the request, and the method for appealing a denial of such a request.

The bill would take effect on June 1, 1998.

MCL 552.509

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no fiscal impact on the Family Independence Agency. (10-6-97)

ARGUMENTS:

For:

The bill would put into law efforts already being made by many of the different friend of the court offices throughout the state. Using electronic means for transferring and recording payments would significantly speed up the process and lower the costs. For example, the Grand Traverse County friend of the court has already instituted such a process, and as a result the county's friend of the court has cut the costs associated with collection, recording, and transferring funds by more than half, saving approximately \$45,000. The system has also significantly increased the turn around time between collection of payments and transferal of those payments to the payee. In addition, the institution of electronic transfer of funds from the friend of the court to the payees has eliminated problems with lost checks and problems in reconciling accounts at the end of the

month due to uncashed checks, and has drastically cut the amount of time needed to reconcile accounts from days to approximately 20 minutes. The Genesee County friend of the court has saved almost \$250,000 through the use of electronic funds transfers. In addition to the cost savings and increased efficiency, the bill would help to meet the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which requires each state to use automated procedures, electronic processes, and computer driven technology to the maximum extent feasible, efficient, and economical for the collection and disbursement of support payments by October 1, 1998.

With regard to the collection of support payments, although the use of electronic means may not significantly affect the friend of the court, employers, particularly larger employers, could realize equally significant decreases in costs by using electronic means to make support payments.

Finally, the bill could help to avoid the all too common situation of placing a payer who is current in his or her support payments in the position of being arrested for failure to pay support due to the FOC's failure to promptly record and disburse support payments. In addition, the bill would make certain that children who depend upon support payments are more likely to receive those payments in a timely fashion.

Against:

The bill will have little or no real impact, as it merely requires the FOC to act "to the fullest extent possible" on something that is already being done in many cases. Additionally, the situation (a payer wrongly being accused of being in arrears) that this bill would allegedly help to alleviate is, at best, a rare occurrence. Furthermore, the bill raises a number of questions. What is "to the fullest extent possible"? Will working "to the fullest extent possible" be sufficient effort to meet the federal requirement of "to the maximum extent feasible, efficient, and economical"? How will it be determined whether the friend of the court offices are making a "full" enough effort? If some friend of the court offices lack the technology to institute electronic funds transfers, will they be violating the law? What level of "cost effectiveness" and "efficiency" will allow the parties to choose not to pursue the use of electronic means for receipt and transfer of funds? At present, it is cheaper in most cases to use electronic means for transactions; however, what if banks raise their rates on electronic transfers? Furthermore, who will determine the criteria for allowing or disallowing a payee's request that distribution of support be made by a means other than electronic transfer? Or for granting or rejecting an appeal of a friend of the court's decision on such a request?

POSITIONS:

The Family Independence Agency supports the bill.

(9-30-97)

The Friend of the Court Association supports the bill.
(9-30-97)

The Center for Civil Justice supports the bill.
(9-30-97)

Analyst: W. Flory
