



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 1001 (Substitute S-1 as reported)
Sponsor: Senator Bruce Caswell
Committee: Judiciary

(as enrolled)

Date Completed: 5-7-12

RATIONALE

The Support and Parenting Time Enforcement Act requires each support order entered or modified by the circuit court to provide for an "order of income withholding" (an order providing for withholding from a payer's income to enforce a support order under the Act). A notice of income withholding must be served on sources of income and is binding upon a source of income seven days after service by ordinary mail or electronically. ("Source of income" means an employer or successor employer, a labor organization, or another individual or entity that owes or will owe income to a support payer.) Employers incur administrative costs to process the withholding of support payments, but Michigan has never allowed businesses to charge a fee for this service and is one of the few states that does not provide for such a fee. Some people believe that Michigan law should authorize employers to assess a fee against support payers in order to be reimbursed for processing the withholding of their support payments.

- \$1 each time income was withheld, but not more than \$2 per month, if income were withheld by electronic means.
- \$2 each time income was withheld, but not more than \$4 per month, if income were withheld by other than electronic means.

The fee would have to be collected separately from the income withheld for child support.

The Act prohibits a source of income from using a notice of income withholding as a basis for refusing to employ, discharging, disciplining, or penalizing a payer. The bill specifies that charging or collecting the fee would not be a violation of that prohibition.

MCL 552.623

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

CONTENT

The bill would amend the Support and Parenting Time Enforcement Act to allow an employer to charge and collect a fee from a payer of support each time the employer withheld payment from the payer under an order of income withholding.

Specifically, the bill would allow a source of income, in response to a notice of income withholding, to charge and collect a fee from a payer as follows:

Supporting Argument

Employers are required under Michigan law to withhold income from an employee who is subject to an order of income withholding for payment of child support, and employers incur administrative costs in complying with that requirement. According to testimony before the Senate Judiciary Committee by a Department of Human Services official, amounts withheld by employers for child support payments go to a centralized State disbursement unit that averages 550,000 transactions a month from employers. Michigan, however, is one of the few states whose support withholding requirement does

not provide for the employer to assess a fee for that service. Essentially, employers are required to do the State's work in collecting money for child support, but are not reimbursed. By allowing employers to assess a nominal fee each time income was withheld for a support order, the bill would bring Michigan in line with most other states and offer employers some degree of reimbursement for their costs in complying with orders of income withholding.

Supporting Argument

By specifying that the authorized fee would have to be collected separately from the income withheld for child support, the bill would ensure that the fee did not come out of support payments, thereby protecting both children who are support recipients and the integrity of the support-collection system. The bill also would protect employers by specifying that charging or collecting the fee would not constitute a violation of the Act's prohibition against penalizing a support payer.

Opposing Argument

The bill could have an inordinate impact on lower-wage earners. Any extra amount withheld from their pay, beyond what they owed for child support, would have a greater effect on their livelihood than it would on higher-wage earners. Also, employees in lower-wage jobs may be more likely to be paid on a weekly basis, rather than biweekly or monthly, so they would have to pay the fee more often. In addition, lower-wage earners often have to work two or more jobs to make ends meet, so they would be subject to a fee for each paycheck with each employer. Having to pay these fees could discourage some from trying to keep low-wage jobs, and might provide an incentive for attempting to dodge income withholding requirements. For instance, the proposed fee could encourage some workers to seek under-the-table payments in cash, remaining off of the official employment rolls, which would make support collection more challenging than it already is. Perhaps the bill should include an income threshold, exempting people who earn under a certain amount from having to pay a fee to an employer. Also, the bill could allow only a monthly fee from each support payer, as some states do, regardless of how often the employee received a paycheck.

Response: A support payer would have to pay an employer no more than \$4

per month, and only up to \$2 if income were withheld electronically. The fees proposed by the bill are substantial enough to allow employers to regain some of their costs in withholding support payments, without being so onerous as to be a big burden on the support payer. Also, the bill would not require employers to assess the proposed fee, but would merely authorize them to withhold the fee, so not all support payers would necessarily have to pay a fee to each employer.

Opposing Argument

Employers must withhold amounts for employees' income taxes and Social Security contributions, and they incur costs in doing so, yet the State does not allow them to charge employees for those costs. Child support withholding is just as important and should not be subject to an assessment.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on the judiciary. To the extent that public bodies are the sources of income addressed under the Act and those public bodies chose to collect the proposed fee from their employees, State and local governments could realize a negligible, but positive fiscal impact.

Fiscal Analyst: Dan O'Connor

A1112s1001a.

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.