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CONSOLIDATE CHILD SUPPORT PROVISIONS

House Bill 4529 (Substitute H-1)
Sponsor: Rep. Michael Griffin

House Bill 4530 (Substitute H-2)
Sponsor: Rep. Gerald Law

**House Bill 4531 with committee
amendments**
Sponsor: Rep. Jon Jellema

House Bill 4532 (Substitute H-2)
Sponsor: Rep. Michael Nye

**House Bill 4533 with committee
amendments**
Sponsor: Rep. Candace Curtis

**House Bill 4534 with committee
amendments**
Sponsor: Rep. Jessie Dalman

First Analysis (6-5-97)
Committee: Judiciary

House Bills 4529-4534 (6-5-97)

THE APPARENT PROBLEM:

Under current law there are nearly identical provisions regarding child support contained in five different acts. These provisions set forth the conditions under which the court may deviate from the amount of child support determined by the child support formula, requirements that the parties keep the friend of the court (FOC) informed as to their current sources of income and any health care that is available to them as a benefit of employment, the conditions under which the court may order health care coverage to be maintained for a child, and the circumstances under which support may be ordered for children beyond their 18th birthday.

It has been suggested by the Legislative Service Bureau that consolidating these provisions within one act would make it easier and more convenient to find and review these child support provisions.

THE CONTENT OF THE BILL:

The package would delete language from several different acts and consolidate the deleted provisions from those acts in the Support and Parenting Time Enforcement Act. Specifically, the bills would remove provisions from each of the acts regarding deviations from child support formulas, requirements that parents report their sources of income and available health care coverage to the friend of the court, and requirements that parents maintain health care coverage for their children. The bills would also repeal sections of the acts that set forth the conditions under which a support order may require the provision of support for a child who has passed the age of 18.

House Bill 4529 would amend the Support and Parenting Time Enforcement Act (MCL 552.605 et al.) to incorporate into the act the provisions that would be

deleted from the various acts by House Bills 4530-4534. The Support and Parenting Time Enforcement Act would then contain provisions (in language substantially similar to that which would be removed from the other acts by the other bills) establishing accepted reasons for deviating from the child support formula, provisions establishing when and how parents may be required to maintain health care coverage for their children, and provisions establishing when a parent may be compelled to provide child support for a child who has passed the age of 18.

The bill would also add enforcement actions under the Paternity Act to the list of applicable laws under which the circuit court may take enforcement action. In addition, the bill would add a provision requiring that in the case of conflicts between the Support and Parenting Time Enforcement Act and any other acts, with regard to specific provisions in support orders, the provisions of the other act would be controlling.

House Bills 4530-4534 would delete language from various acts that provides for the court to order child support in an amount determined by the child support formula or an amount that deviates from the formula under specified circumstances. The bills would also delete language requiring a parent to inform the friend of the court of his or her sources of income and available health care coverage, as well as requiring parents to maintain health care coverage for their children. The bills would also provide that the court could order support for a child who had passed the age of 18 under section 5b of the Support and Parenting Time Enforcement Act (which would be established by House Bill 4529). In addition, the bills would require that any conflicts between the provisions contained in the Support and Parenting Time Enforcement Act and the provisions of the acts amended by the bills would be controlled by those specific acts. Finally, each bill would repeal the section of each act that sets forth the conditions under which a support order may require the provision of support for a child who has passed the age of 18.

In addition, House Bill 4534 would provide that on the motion of one of the parties, the court could make determinations on custody and parenting time in an action brought under the Family Support Act in the same manner as provided for in the Child Custody Act. Under the current law, when an action is brought against a parent seeking payment of support under the Family Support Act, the court cannot also entertain motions to deal with issues of custody and parenting time. In order to deal with parenting time and custody issues, a separate file must be opened under the Child Custody Act. Under the bill, when a custody or parenting time dispute was brought under the Family Support Act, the court would be required to immediately enter an order establishing support and temporary custody and parenting time. While waiting to hold a hearing or other resolution of the dispute, the court

could refer the dispute to the friend to the court for a report and recommendation as provided in the Friend of the Court Act. The court would have continuing jurisdiction over such actions to change the amount of child support and to provide, change, and enforce provisions of the order relating to custody, support, or parenting time. However, the bill would also provide that, in disputes over custody or parenting time brought under the Family Support Act, neither the prosecuting attorney nor an attorney appointed by the county or the court would be required to represent either party.

House Bill 4530 would amend Chapter 84 of the Revised Statutes of 1846, entitled "Of Divorce" (MCL 552.15 et al.). House Bill 4531 would amend the Child Custody Act (MCL 722.27 et al.). House Bill 4532 would amend the Paternity Act (MCL 722.717 et al.). House Bill 4533 would amend the emancipation of minors act (MCL 722.3 et al.). House Bill 4534 would amend the Family Support Act (MCL 552.452 et al.).

House Bills 4530-4534 are tie-barred to House Bill 4529, which is in turn tie-barred to each of the others. Each of the bills would take effect January 1, 1998.

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

The bills will simplify the laws concerning child custody: rather than having to examine several different acts, one could find the language in one act. This change is only technical; it would not change the substance of the law, but merely change where the child custody provisions can be found.

In addition, House Bill 4534 would allow a parent to bring a motion for custody or parenting time as part of an action for support under the Family Support Act. Currently, when a support action is initiated under the Family Support Act, the non-custodial parent must file a separate case if he or she wants the court to deal with questions of custody or parenting time. The bill would allow a court to consider these issues as part of an action under the Family Support Act, saving time and money for both the court and the parent.

Against:

Although it attempts to simplify matters by consolidating language into one act, the package could increase confusion by providing that the other acts are controlling in cases of conflict between those acts and the consolidated language. It would make more sense to have the consolidated language control in cases of

conflict, since presumably that will be the act to which people will turn when trying to determine the status of the law.

Against:

House Bill 4529 would retain language that includes a bond provision that contains no limitations or restrictions on the amount of the bond or how long it may be held, a requirement that results in non-custodial parents being forced to pay 100 percent of health insurance costs, and requires non-custodial parents who are self-employed to purchase and provide health insurance coverage even where the other parent has employer-provided insurance that would be considerably less expensive. Rather than retaining the unfair provisions of the current law, changes should be made that are less harmful and less prejudicial towards non-custodial parents.

POSITIONS:

The Family Law Section - State Bar of Michigan supports House Bills 4529-4533, but has no position on House Bill 4534. (6-3-97)

The Capitol Area Fathers for Equal Rights opposes House Bill 4529. (6-4-97)

Analyst: W. Flory

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.