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House Bill 4304 (Substitute H-1 as passed by the House)
House Bill 4305 (Substitute H-1 as passed by the House)
Sponsor: Representative Hank Vaupel
House Committee: Families, Children and Seniors
Ways and Means
Senate Committee: Families, Seniors, and Veterans

Date Completed: 5-15-19

CONTENT

House Bill 4304 (H-1) would amend the Support and Parenting Time Enforcement Act to do the following:

- **Modify a requirement for a court to order a permit to obtain health care coverage under a child support order.**
- **Require the court to use guidelines as provided in the child support formula developed by the State Friend of the Court (FOC) Bureau to determine health care coverage that was accessible to the child and available at a reasonable cost.**
- **Require the FOC office to comply with certain provisions related to a new hire report entered into the State directory of new hires if a parent were ordered to pay support or obtain or maintain health care coverage through an employer or both.**
- **Require a notice of noncompliance sent to a parent to indicate that if the order for dependent health care coverage did not specify whether it should be private or public health care coverage that the parent could obtain either type of coverage.**

House Bill 4305 (H-1) would amend the Friend of the Court Act to do the following:

- **Modify the grounds under which the FOC office could review a child support order.**
- **Modify the circumstances under which the FOC office must petition to the court for a modification to require one or both parents to obtain or maintain health care coverage for the benefit of the child.**
- **Require the child support formula developed by the Bureau to include guidelines for determining which parent would have to maintain health care coverage for the child.**

The bills are tie-barred.

House Bill 4304 (H-1)

Under the Act, if a child support order is entered, the court must require that one or both parents obtain or maintain health care coverage that is available to them at a reasonable cost, as a benefit of employment, for the benefit of the parties' minor children and, subject

to Section 5b, for the benefit of the parties' children who are not minor children. (Section 5b specifies that a court may order child support for a child above the age of 18 under certain circumstances.)

The bill would delete the phrase "as a benefit of employment". The bill also specifies that the health insurance coverage would have to be accessible to the child.

"Health care coverage" would mean a fee for service, health maintenance organization, preferred provider organization, or other type of private health care coverage or public health care coverage. "Private health care coverage" would mean health care coverage obtained through an employer or purchased by an individual from an insurer. "Public health care coverage" would mean health care coverage that is established or maintained by local, state, or Federal government such as Medicaid or the State children's health insurance program.

The Act also specifies that, if a parent is self-employed and maintains health care coverage, the court must require the parent to obtain or maintain dependent coverage for the benefit of the minor children of the parties and, subject to Section 5b, for the benefit of the parties' children who are not minor children, if available at a reasonable cost. The bill would delete this provision.

Instead, the bill would require the court to use guidelines as provided for in the child support formula developed by the Friend of the Court Bureau under Section 19 of the Friend of the Court Act to determine health care coverage that was accessible to the child and available at a reasonable cost. The court could not require both parents to provide health care coverage unless the parents already provided coverage or both parents agreed to provide it. This provision would not prevent the court from exercising its discretion to order health care coverage based on the child's needs and the parent's resources.

(Section 19 establishes the Bureau and requires it to develop and recommend guidelines for conduct, operations, and procedures related to, among other things, a formula to be used in establishing and modifying a child support amount and health care obligation.)

Also, the Act defines "work activity" to mean, among other things, a referral to and participation in the Work First or successor program prescribed in the Social Welfare Act. The bill, instead, would refer to the PATH: Partnership. Accountability. Training. Hope. Work partnership program.

New Hire; Health Care Coverage

Under the Act, for an FOC case, within two business days after a new hire report is entered into the State directory of new hires, or a payer's or parent's employer is otherwise identified, the FOC must, when appropriate, provide the new employer with a notice of income withholding or a notice of the order for dependent health care coverage, or both, on behalf of a payer who is subject to income withholding or a parent or payer who is required to provide health care coverage. Under the bill, the FOC office, when appropriate, would have to comply with this provision if a parent were ordered to pay support or obtain or maintain health care coverage through an employer, or both.

If the order for dependent health care coverage did not specify whether the health care coverage had to be private health care coverage or public health care coverage, the office, when appropriate, would have to provide an employer with the notice specified above unless one of the following applied:

- The parent or payer who was required to obtain health care coverage provided proof that coverage available through the employer was not accessible to the child or not available at a reasonable cost; health care coverage would be presumed to be accessible to the child and available at a reasonable cost if it met the guidelines provided in the child support formula developed by the Bureau under Section 19 of the Friends of the Court Act.
- The parent or payer who had to provide health care coverage had obtained and maintained health care coverage that was accessible to the child and was available to the parent at a reasonable cost.

Failure to Provide Health Care Coverage

Under the Act, if a parent fails to obtain or maintain health care coverage for the parent's child as ordered by the court, the FOC office, as applicable, must do either of the following:

- Petition to the court for an order to show cause why the parent should not be held in contempt for failure to obtain or maintain dependent health care coverage that is available at a reasonable cost.
- Send notice of noncompliance to the parent.

The notice must contain all of the following information:

- That the office will notify the parent's employer to deduct premiums for, and to notify the insurer or plan administrator to enroll the child in, dependent health care coverage unless the parent within 21 days after mailing of the notice, submits proof to the FOC of the child's enrollment in a health care coverage plan, or requests a hearing to determine the availability or reasonable cost of the health care coverage.
- That the order for dependent health care coverage will be applied to current and subsequent employers and periods of employment.

In addition, the bill would require the notice to specify that if the order for dependent health care coverage did not specify whether that coverage had to be private health care coverage or public health care coverage, that the parent could obtain or maintain either type of coverage. To the extent possible, the notice would have to provide contact information available to the public for local, State, or Federal agencies that administer public health coverage.

House Bill 4305 (H-1)

Under the Friend of the Court Act, after a final judgement containing a child support order has been entered in a friend of the court case, the FOC office must use a procedure provided in Section 17b to periodically review the order, as prescribed by the Act. Among other things, at its initiative, the FOC office may review, if there are reasonable grounds to believe that the amount of child support awarded in the judgement should be modified or that dependent health care coverage is available and the support order should be modified to include an order for health coverage. The bill would revise this provision to specify that the FOC office would have to periodically review the order at its Office if there were reasonable grounds to believe that the child support awarded in the judgment or dependent health coverage should be modified or both. (Section 17b provides certain requirements and timelines for a review by the Office of the Friend of the Court and parties involved in the case.)

"Health care coverage" would mean a fee for service, health maintenance organization, preferred provider organization, or other type of private health care coverage or public health care coverage. ("Private health care coverage" would mean health care coverage obtained through an employer or purchased by an individual from an insurer. "Public health care

coverage" would mean health care coverage that is established or maintained by a local, state, or federal government such as Medicaid or the State children's health insurance program.)

The Act specifies that reasonable grounds to review an order in the manner described above include any of the following:

- Temporary or permanent changes in the physical custody of a child that the court has not ordered.
- Increased or decreased need of the child.
- Changed financial conditions of a recipient of support or a payer.
- The order was based on incorrect facts.

The Act also specifies that a reasonable ground to review an order includes probable access by an employed parent to dependent health care coverage. The bill specifies that it would be a reasonable ground that those would be probable access by a parent to dependent health care coverage that was accessible to the child and available at a reasonable cost. Health care coverage would be presumed accessible to the child and presumed available at a reasonable cost if it met the guidelines provided in the child support formula developed by the Friend of the Court Bureau under Section 19. The bill also would include as reasonable grounds to review an order changed health care coverage cost from the amount used in the previous child support order.

Under the Act, if a support order lacks provisions for health care coverage, the office must petition the court for a modification to require that one or both parents obtain or maintain health care coverage for the benefit of each child who is subject to the support order if either parent has health care coverage available, as a benefit of employment, for the benefit of the child at a reasonable cost, or if either parent is self-employed, maintains health care coverage for himself or herself, and can obtain health care coverage for the benefit of the child at a reasonable cost.

Under the bill, the FOC office would have to petition the court for a modification to require that one or both parents obtain or maintain health care coverage for the benefit of each child who was subject to the support order when health care coverage was accessible to the child and available at a reasonable cost. The office would have to use the guidelines provided for in the child support formula developed by the Bureau under Section 19 to recommend which parent would have to provide health care coverage that was accessible to the child and available at a reasonable cost. The office could not petition the court to require both parents to provide health care coverage unless both parents already provided coverage or both agreed to provide coverage. The bill would not prevent the court from exercising its discretion to order health care coverage based on the child's needs of the parent's resources.

Child Support Formula

Under the Act, the Bureau, among other things, must develop and recommend guidelines for conduct, operations, and procedures of the FOC office and its employees, including the formula to be used in establishing and modifying a child support amount and health care obligation. The formula must be based upon the needs of the child and actual resources of each parent, and must do the following:

- Establish a minimum threshold for modification of a child support amount.
- Consider the child care and dependent health care coverage costs of each parent.
- Include guidelines for setting and administratively adjusting the amount of periodic payments for overdue support, including guidelines for adjustment of arrearage payment

-- schedules when the current support obligation for a child terminates and the payer owes overdue support.

The bill would require the formula to include guidelines for determining which parent would be required to maintain health care coverage for the child and include a presumption for determining the reasonable cost and accessibility of health care coverage.

MCL 552.602 et al. (H.B. 4304)
552.502 et al. (H.B. 4305)

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

The bills could have a minor, negative fiscal impact on the State Court Administrative Office and an indeterminate fiscal impact on local Friend of the Court offices and circuit courts.

The bills would require the State Friend of the Court Bureau, housed within the State Court Administrative Office, to amend its current child support formula guidelines. The minor cost for this change likely would be absorbed by the State Court Administrative Office.

The bills also would modify instances in which each Friend of the Court Office for each judicial circuit would have to file a petition on behalf of a child to modify health care coverage. It is unclear if this change would result in an increase or decrease in filed petitions; however, any increase or decrease likely would be minimal.

To the extent the bills would change statute to meet current policy, there likely would be no fiscal impact on the Department of Health and Human Services.

Fiscal Analyst: John Maxwell
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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.