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SFA



BILL ANALYSIS

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Senate Bill 288 (Substitute S-1 as passed by the Senate)
Senate Bills 289 through 293 (as passed by the Senate)
Sponsor: Senator Joel D. Gougeon (Senate Bills 288-290)
Senator Robert Geake (Senate Bills 291-293)
Committee: Families, Mental Health and Human Services

Date Completed: 7-7-97

RATIONALE

Under current law, there are nearly identical provisions regarding child support contained in five different acts. These provisions specify 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 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. Some people believe that these provisions should be consolidated into one statute.

In addition, legislation enacted in recent years has attempted to convey the importance of both parents' involvement in the child rearing process and to promote parental involvement. Some people believe that this effort can be hindered when a custodial parent relocates a considerable distance away from the place of the child's residence at the beginning of a custody action; therefore, they believe that these moves should be limited or, at least, monitored by the court.

CONTENT

Senate Bills 288 (S-1) through 293 would amend various statutes to consolidate provisions concerning child support in the Support and Parenting Time Enforcement Act. Senate Bill 288 (S-1) also would limit the ability of a custodial parent to move away more than two hours' round-trip driving time. Senate Bill 288 (S-1) is tie-barred to Senate Bills 289 to 293, which are tie-barred to Senate Bill 288.

Senate Bill 288 (S-1)

The bill would amend the Support and Parenting Time Enforcement Act to incorporate the provisions that would be deleted from the other acts by Senate Bills 289 to 293. The bill, therefore, would require a court to order child support based upon the child support formula developed by the Friend of the Court Bureau; establish accepted reasons for deviating from the child support formula; require parents to maintain health care coverage for their minor children; and establish the conditions under which parents could be ordered to provide child support for children over 18 years of age.

The bill also would add the Paternity Act to the list of applicable laws under which the circuit court may take enforcement action. The bill states that if there were a conflict between the Support and Parenting Time Enforcement Act and another act containing a specific provision concerning the contents or enforcement of a support order, the other act would control.

In addition, if a child custody order prescribed a primary residence for the child with one parent and had parenting time provisions for the other parent, the order also would have to prescribe that the parent living with the child could not change residence to a location more than two hours, round-trip, by motor vehicle from the child's residence at the time of the commencement of the action in which the order was issued. This restriction would not apply, however, if the parent with the right to parenting time consented to the move or the court permitted the change of residence after considering all of the following:

-- Whether the prospective move had the

capacity to improve the quality of life for both the custodial parent and the child.

- Whether the move was inspired by the custodial parent's desire to defeat or frustrate parenting time by the other parent and whether the custodial parent was likely to comply with the substitute parenting time orders if he or she no longer resided within the area of the court's circuit.
- The extent to which the noncustodial parent, in resisting the move, was motivated by the desire to secure a financial advantage with respect to a continuing support obligation.
- The degree to which, if the residence change were permitted, the court was satisfied that there would be a realistic opportunity for parenting time, instead of the current parenting time schedule, that could provide an adequate basis for preserving and fostering the parental relationship with the noncustodial parent.
- The degree to which the noncustodial parent had exercised parenting time as ordered by the court.

Senate Bills 289-293

The bills would amend various acts to delete provisions that allow 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; require a parent to inform the Friend of the Court of his or her sources of income and available health care coverage; and require parents to maintain health care coverage for their children. In addition, the bills provide 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 concerning the contents or enforcement of a support order would be controlled by the specific acts.

Further, the bills would repeal sections of the acts that specify the conditions under which a support order may require the provision of support for a child who has passed the age of 18 years.

Senate Bill 289 would amend the divorce Act; Senate Bill 290 would amend the Child Custody Act; Senate Bill 291 would amend the Paternity Act; Senate Bill 292 would amend the emancipation of minors Act; and Senate Bill 293 would amend the Family Support Act.

MCL 555.627 et al. (S.B. 288)
552.15 et al. (S.B. 289)
722.27 (S.B. 290)
722.717 et al. (S.B. 291)
722.3 (S.B. 292)
552.452 (S.B. 293)

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.)

Supporting Argument

The bills would simplify the laws concerning child custody: Rather than having to examine several different acts, someone could find the appropriate provision in one act. This aspect of the bills merely would be a technical consolidation of similar provisions from several acts into one statute.

Response: The bills actually could increase confusion by providing that the other acts would control in cases of conflict between those acts and the consolidated language. Perhaps the statute containing the consolidated language should control in cases of conflict, since that presumably is the act to which people would turn when trying to determine the content or status of child custody law.

Supporting Argument

Senate Bill 288 (S-1) would continue the policy of emphasizing the importance of both parents' role in the upbringing of their child. The bill's restrictions on a custodial parent's change of address would prevent a custodial parent from interfering with the noncustodial parent's parenting time by moving too far for that parent to exercise his or her parental responsibilities conveniently, unless the custodial parent had a legitimate reason for the relocation.

Response: The bill also should address the issue of who would be responsible for the time and expense of exercising parenting time. The burden should not fall entirely upon the noncustodial parent, especially if the custodial parent were allowed to relocate beyond the bill's two-hour round-trip standard.

Opposing Argument

The relocation restriction in Senate Bill 288 (S-1) is inequitable because it would apply only to one parent. If it is to be included in the bill at all, the restriction should apply to both parents. Doing so not only would be fair to all parties, but also would

recognize the impact on a child when a noncustodial parent abandons his or her parenting time. Although it may not be possible to force a noncustodial parent to spend quality parenting time with his or her child, statutory incentives could encourage a parent to be responsible in this area as they have done in regard to child support payment.

Response: The State cannot mandate that a noncustodial parent be a responsible parent by restricting his or her place of residency. Such a requirement would assume that the noncustodial parent was a good parent and that his or her close proximity was desired; if he or she were not exercising parenting time responsibilities, it would make little sense to require the consent of the custodial parent for the noncustodial parent to move away. A noncustodial parent who was meeting his or her parenting time responsibilities and desired to continue doing so likely would not move far away from the child in the first place.

Opposing Argument

The relocation restriction could impede welfare reform efforts and compromise the safety of victims of domestic violence. If a welfare recipient had a job offer in a distant location, Senate Bill 288 (S-1) could preclude his or her transition from public assistance to employment by preventing the person from moving. Also, a victim of domestic violence who was a custodial parent could be hindered in attempting to escape the reach of an abusive noncustodial parent. Although people in both of these situations could seek court approval to move, welfare recipients and battered spouses typically have difficulty gaining access to courts because of a lack of resources.

Response: While Senate Bill 288 originally would have restricted moves beyond 75 miles, the (S-1) substitute, with its two-hour round-trip standard, is consistent with the Family Independence Agency's family independence program, which requires a welfare recipient in the program to accept a job within a two-hour per-day commute. In addition, the factors the court would have to consider in determining whether to consent to a move include whether the move could improve the quality of life of the custodial parent and the child. Obtaining employment to exit the welfare rolls and evading a batterer certainly would improve the parent's and child's quality of life.

Opposing Argument

The bill could be used by a noncustodial parent simply to obstruct a custodial parent's efforts to improve his or her situation, regardless of whether the noncustodial parent played an active role in

child-rearing.

Response: The factors the court would have to consider include the degree to which the noncustodial parent exercised court-ordered parenting time.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: M. Ortiz

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.