

**Department of Legislative Services**  
 Maryland General Assembly  
 2003 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 564  
 Appropriations

(Delegate Branch, *et al.*)

Finance

**Department of Human Resources - Child Support Enforcement Privatization Pilot Program and Demonstration Sites - Established**

This bill establishes the Child Support Enforcement Privatization Pilot Program (CSEPPP). The bill requires the Secretary of Human Resources to establish up to 22 demonstration sites to compete with the privatization sites on a phased-in basis. The demonstration site phase-in must be completed by July 1, 2008. The bill has an effective date of June 1, 2003 and sunsets on September 30, 2009.

**Fiscal Summary**

**State Effect:** The FY 2004 budget allowance includes \$11.2 million for the privatization program (\$7.4 million federal funds/\$3.8 million general funds). Out-year expenditures are expected to remain relatively constant. For FY 2004, four new demonstration sites would be phased in. FY 2004 incentive payments are estimated to be \$186,004 (66% federal funds/34% general funds). The funds are not included in the proposed FY 2004 budget. Out-year expenditures reflect annualization and addition of three new sites in FY 2006, four new sites in FY 2007, and five new sites in FY 2008. Potential minimal increase in special fund revenues from increased support collections. The remaining six demonstration sites would be established by FY 2009.

(in dollars)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
SF Revenue	-	-	-	-	-
GF Expenditure	63,200	66,100	114,500	183,100	274,100
FF Expenditure	122,800	128,300	222,300	355,300	532,000
Net Effect	(\$186,000)	(\$194,400)	(\$336,800)	(\$538,400)	(\$806,100)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** None.

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## Analysis

### Bill Summary:

*Child Support Privatization:* CSEPPP is established within the Department of Human Resources (DHR) and operates in Baltimore City and Queen Anne's County. The Secretary is authorized to enter into contracts with companies to privatize all aspects of child support enforcement including absent parent location, paternity establishment, support order establishment, collection and disbursement of support payments review, and modification of child support orders and child support order enforcement. The Secretary must establish procedures for the orderly transition from an existing private contractor to a new contractor selected to continue privatization as required by the bill. Any contractor that provides privatization services is required to offer fair and equitable employment to any existing State employees working for an existing contractor and affected by the transfer of child support enforcement responsibilities. The private contractor is required to retain any employee who accepts an offer of employment at a comparable salary and benefit level for the duration of CSEPPP unless there is cause for dismissal. The private contractor must also make a grievance procedure available for former State employees. DHR must assist a former State employee who declines an offer of employment with a private contractor by identifying a comparable position in the State service.

A request for proposal (RFP) to transfer child support collection activities must comply with State procurement provisions, set the goals of privatization, and specify incentives for the contractor. The Secretary is required to report annually to the Governor and the General Assembly on the operation and performance of CSEPPP. The report must provide an assessment of the effectiveness and success of CSEPPP in enhancing child support collections. Plans for improving the success of CSEPPP must also be included. DHR is required to adopt regulations to carry out CSEPPP.

On or before October 1, 2003, and annually thereafter, the Secretary of Human Resources must report to the Governor and the General Assembly on the operation and performance of the pilot privatization program. The report must assess the pilot program for its effectiveness and success in enhancing child support collection through privatization of child support enforcement in Baltimore City and Queen Anne's County. The Secretary must include the plans for improving the effectiveness and success of the pilot program. A State employee who is a nontemporary employee with the Child Support Enforcement

Administration (CSEA) and is currently working for the existing private contractor shall remain in that status unless the employee accepts employment with the private contractor.

The bill provides September 30, 2009 as the termination date for the authorization of DHR to enter into a privatization contract for child support enforcement services in Baltimore City and Queen Anne's County. The first privatization contract to be negotiated between DHR and a private contractor after the bill's effective date must be for four years and three months, with the option for up to two one-year extensions.

The Secretary must adopt any other regulations necessary to carry out the bill's provisions.

*Child Support Demonstration Sites:* This bill requires the Secretary of Human Resources to establish child support demonstration sites in all jurisdictions that are not privatized. The jurisdictions of Baltimore City and Queen Anne's County are privatized. A demonstration site is any jurisdiction that competes against privatized jurisdictions in providing child support enforcement services.

The Secretary must establish at least four new sites by July 1, 2003. By July 1, 2005, three new sites for a total of seven demonstration sites must be established. Four new sites for a total of 11 demonstration sites must be established by July 1, 2006 and 5 new sites for a total of 16 demonstration sites must be established by July 1, 2007. The bill provides for the establishment of 6 new demonstration sites for a total of 22 sites by July 1, 2008. When establishing demonstration sites, the Secretary must choose jurisdictions that are geographically diverse. The Secretary is authorized to establish sites at a rate faster than required if sufficient funds are available in the budget.

The Secretary has sole authority over child support enforcement functions at a demonstration site, including, but not limited to: (1) parent location; (2) paternity establishment; (3) child support order establishment; (4) collection and disbursement of support payments; (5) review and modification of child support orders; (6) enforcement of support obligations; (7) provision of legal representation as established by statute; and (8) establishment of contractual agreements with private or public entities to provide child support services. Unless a classified service employee already holds a position, employment positions at the demonstration sites are in the management service or are special appointments in the State Personnel Management System. The Secretary is required to establish pay incentives for demonstration site employees. Powers of the Secretary to carry out the demonstration site provisions are to be construed liberally.

**Current Law:** CSEA is responsible for coordination of a statewide program for child support enforcement. CSEA is required to maintain a central registry of records on

absent parents, locate absent parents, determine the ability of an absent parent to pay child support, accept assignment of title for child support collections on behalf of temporary cash assistance (TCA) recipients, collect and disburse payments, use established legal processes to enforce support orders, and cooperate with other states in establishing and enforcing child support obligations.

CSEA is required to establish a State disbursement unit for collection and disbursement of support payments in any case on behalf of a TCA recipient, or in which the obligee files an application and pays an application fee of not more than \$25 for child support services. CSEA is authorized to deduct child support payments from income tax refunds or collect fees from the obligor to defray the cost of providing services. With certain exceptions, the fees may not be deducted from the child support obligee or the child support payment.

CSEA is authorized to enter into cooperative agreements with public or private agencies, a circuit court, an institution, or law enforcement official to establish paternity, establish liability for support, collect support, or enforce a court order to pay support. For obligors that are in arrears as defined by statute, CSEA is authorized to certify those obligors to the State Comptroller and the State Comptroller must withhold and pay to CSEA any income tax refund up to the amount of the arrearage. A similar certification and interception process is authorized for lottery prizes.

CSEA has the authority to initiate legal proceedings for the collection of child support. For obligors in arrears, CSEA has the authority to initiate proceedings to suspend driving privileges and suspend or deny occupational license privileges.

The Secretary of Human Resources is required to adopt regulations for the collection of child support and adopt standards relating to CSEA staffing, management, reporting, and intergovernmental cooperation to assure the efficient operation of CSEA. The Secretary of Human Resources has the authority to delegate responsibility for support enforcement to a local department of social services or a clerk of the circuit court, within the parameters established in statute. Subject to federal laws or programs, CSEA and local support enforcement offices are required to promote and serve the best interests of the child in carrying out child support enforcement responsibilities.

## **Background:**

*Origin of Privatization Authority:* Chapter 491 of 1995 established a CSEPPP. Pilot sites were established in Baltimore City and Queen Anne's County and the State arranged to transfer its operations to a private, for-profit vendor effective November 1996. The first contractor was Lockheed Martin, which received a three-year contract. In 1999,

Chapter 486 extended the authority for CSEPPP from October 31, 1999 until October 31, 2002. The DHR evaluation committee recommended that a three-year contract be awarded to MAXIMUS, Inc.

Payments to MAXIMUS were based on a certain percentage of child support collections, which varied each contract year. The three-year contract with MAXIMUS had an annual collection goal of \$63.5 million for Baltimore City. MAXIMUS exceeded this goal by approximately \$0.5 million, \$3.7 million, and \$9.8 million in the first, second, and third years of the contract, respectively. Collections for Queen Anne's County improved at a stable rate since 1991. It is important to note, however, that several enforcement tools became available after 1995, making it difficult to determine the exact amount of improvement in collections directly related to the privatization effort. In both Baltimore City and Queen Anne's County, the arrearage collection rate remained basically flat or declined over the period of privatization. One theory for this performance is that as collection of current obligations improved, the more difficult arrearage cases were left for the contractor to handle.

*DHR Demonstration Sites:* DHR was authorized to establish six demonstration sites. Four demonstration sites were set up to "compete" with privatized Baltimore City and Queen Anne's County: Calvert, Montgomery, Howard, and Washington counties. The authority for demonstration sites expired on October 31, 2002. Funds remain for continuation of the former demonstration sites until June 30, 2003. In these jurisdictions, the child support enforcement offices earned incentive dollars from the State. Performance measures used for the demonstration sites reflected federal guidelines.

In comparing the performance of the MAXIMUS sites with the demonstration sites, in the budget analysis for fiscal 2003, the Department of Legislative Services (DLS) found that the demonstration sites met or exceeded their goals from October 1999 to October 2000. Queen Anne's County improved its performance and met or exceeded its attainment goals; although for collections from cash paying arrears, the county's performance declined slightly but still exceeded the goal. Baltimore City met or exceeded its goals in three of four performance areas, but in one area, collections from current support paid, performance declined during the period.

In the fall of 2001, DHR contracted with RESI Research and Consulting to complete an outside evaluation of the experience of demonstration sites and compare that to the privatization experience. The consultants found that data had to be adjusted to account for the location of 40% of the child support enforcement caseload in Baltimore City. The consultants adjusted the data to form a more equalized basis of comparison between Baltimore City and the other jurisdictions. The preliminary findings were that there was no statistically significant difference between performance of the privatized sites and the

18 State jurisdictions that operate in the traditional State system. The consultants also reported that the performance in the four demonstration sites improved more than the performance in the privatized sites.

*Sunset:* Because the authorizing legislation for privatization was set to expire on October 31, 2002, several legislative proposals were introduced in the 2002 session to extend privatization for three years. HB 495 would have extended privatization and provided authority for the Secretary of Human Resources to create additional demonstration sites on a phased-in basis. HB 495 was passed by the General Assembly but vetoed by the Governor for policy reasons. In his veto message, the Governor stated that “[e]xtending what was to be a *pilot* for three additional years of analysis is unnecessary and unadvisable... [the RESI study] findings indicated clearly that the State-run demonstration sites had improved their overall performance at a faster rate, compared to privatized sites, despite months of analysis [the study did not produce] evidence that privatizing child support services improved the State’s overall performance. In fact, the RESI study projects that State-run sites will continue to out perform privatized sites well into the foreseeable future.” The General Assembly adopted budget bill language, however, to extend the privatization pilots through the end of fiscal 2003.

As required by budget bill language, DHR held a competitive bid process in summer 2002 and awarded the contract to MAXIMUS. The contract extension is cost based, rather than performance based, due to the short period of the contract. According to DHR, the cost of extending the privatization contract through June 30, 2003 will be about \$8.3 million. While the budget bill language extended the privatization efforts, it did not address the demonstration sites.

**State Revenues:** Child support collections could increase to the extent that the conversion to demonstration sites facilitates child support enforcement efforts. Any such increase cannot be quantified at this time due to unavailability of data. TCA recipients must assign their support rights to the State and federal government as partial reimbursement for TCA payments made on behalf of the children of the obligor; as a result, TCA child support collections are distributed 50% to the State and 50% to the federal government.

**State Expenditures:** The bill requires a performance incentive program for employees in each demonstration jurisdiction, with incentive payments based on an estimated 5% of base salaries. The Secretary has discretion to determine which sites will be phased into the demonstration program, therefore DLS estimated the fiscal impact by using 5% of the average of the total fiscal 2004 salaries for the 22 State-run sites.

DHR advises that demonstration jurisdictions could meet goals requiring incentive payments about 80% of the time. Incentives would be paid to employees on a quarterly basis. The bill has an effective date of June 1, 2003. A delay in start-up is not likely, because CSEA already has the infrastructure in place to reestablish demonstration sites in the four jurisdictions named in the bill by July 1, 2003.

Fiscal 2004 expenditures could increase by an estimated \$186,004 (\$122,763 federal funds/\$63,241 general funds) for incentive payments for the four new sites based on the following facts and assumptions:

- the total fiscal 2004 salary allowance for the 22 State-run sites is \$22,370,374;
- based on a 5% incentive payment, the average incentive payment per site is \$51,033;
- the average incentive payment per site at 80% attainment is \$40,826; and
- fringe benefits make up 13.9% – for a total of \$46,501 in fiscal 2004 incentive payments per site.

Out-year expenditures reflect annualization, the phase-in of three new sites in fiscal 2006, four new sites in fiscal 2007, and five new sites in fiscal 2008. The bill requires the remaining six sites and all jurisdictions, except for Queen Anne's County and Baltimore City, to be demonstration sites by fiscal 2009, that is, by July 1, 2008. Out-year expenditures reflect annual salary increases of 4.5%. The incentive percentage is not expected to change in the near future. There may, however, be additional expenditures with the transition of traditional State sites to demonstration sites. The hiring flexibility available for demonstration sites would be used to recruit and hire for vacant positions. DHR may potentially use employees from other offices to fill service gaps, if they occur.

DLS also advises that because the Secretary of Human Resources is authorized to accelerate the phase-in of demonstration sites as the agency budget permits, fiscal 2004 and out-year costs could increase significantly to accommodate a more rapid transition to demonstration sites. The impact of an accelerated phase-in cannot be reliably estimated. However, by way of illustration, if 22 sites became demonstration sites in fiscal 2004, DLS estimates total incentive payments would be \$1,019,194, consisting of \$672,668 in federal funds and \$346,526 in general funds.

The State contract with MAXIMUS totaled \$42 million over the last three years. The proposed fiscal 2004 State budget contains \$11,224,642 for privatization. Federal funds make up 66% or \$7,408,264. State general funds make up 34% or \$3,816,378. The amount budgeted for the contract in fiscal 2004 is substantially unchanged from previous years. A contract with a private vendor for Baltimore City and Queen Anne's County

would continue for at least four more years under this bill and a maximum of six years, through fiscal 2010. Out-year expenditures for the privatization contract are dependent on negotiated payments between the vendor and DHR, but the contract costs are expected to remain relatively constant.

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### **Additional Information**

**Prior Introductions:** This bill is similar to HB 495 from the 2002 session. HB 495 passed the House and Senate, but was vetoed by the Governor (see discussion in Background section of this fiscal note). Another similar bill, HB 1226, was also introduced in the 2002 session. HB 1226 received an unfavorable report from the Appropriations Committee. Two other bills, SB 387 and SB 758, were introduced during the 2002 session. Both bills were referred to the Finance Committee and were not reported out by the committee.

**Cross File:** None designated, although SB 524 is identical.

**Information Source(s):** Department of Human Resources, Department of Legislative Services

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Analysis by: Karen D. Morgan

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510