

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 263
Judiciary

(Delegate Dumais, *et al.*)

Judicial Proceedings

Child Support Enforcement - Child Support Payment Incentive Program

This bill establishes a statewide Child Support Payment Incentive Program (program) to encourage payment in cases in which the right to child support has been assigned in exchange for Temporary Cash Assistance (TCA). The Child Support Enforcement Administration (CSEA) must develop the program by June 1, 2008.

CSEA must report to the General Assembly on or before October 1, 2009 on implementation of the bill's provisions.

Fiscal Summary

State Effect: Potential minimal increase in special fund revenues to the extent the bill increases child support collections. Total fund expenditures increase \$557,400 in FY 2008 (\$367,900 federal funds/\$189,500 general funds) for computer programming modifications in FY 2008 only and expenditures for the required public education program. Future years reflect mailing cost annualization and inflation.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
SF Revenue	-	-	-	-	-
GF Expenditure	189,500	400	400	400	400
FF Expenditure	367,900	800	800	800	800
Net Effect	(\$557,400)	(\$1,200)	(\$1,200)	(\$1,200)	(\$1,200)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The program is meant to encourage obligors to enter into agreements with CSEA in exchange for reductions in the amount of arrearages. To participate in the program, an obligor's gross income must be less than 225% of the federal poverty level. For purposes of determining the federal poverty level, the obligor's household includes children for whom the obligor must pay support under a child support order that is the subject of the application to the program.

In determining whether to authorize an obligor to participate in the program, CSEA must consider whether • the obligor has a current ability to pay; • the reduction of arrearages will enhance the obligor's economic stability; and • the agreement serves the best interests of the children the obligor must support. If any of the aforementioned factors are met, then a presumption exists that it is in the best interest of the State to authorize an obligor to participate in the program.

Under the program, CSEA must agree to reduce the arrearages as follows:

- after 12 months of uninterrupted court-ordered payments, the arrearages must be reduced by 50% of the amount of the arrearages owed before the agreement; and
- after 24 months of uninterrupted court-ordered payments, the arrearages must be reduced to zero in full settlement of the arrearages owed.

CSEA must distribute any child support arrearages received in accordance with federal law. For the duration of a program agreement, all enforcement actions against an obligor must be suspended, except that earnings withholding must continue in an amount consistent with the agreement.

When CSEA enters into an agreement with an obligor under the program, CSEA must file a copy of the agreement within 30 days after the agreement is executed. If an obligor satisfies the requirements for reduction of arrearages under the specified schedule, CSEA must file a notice of the reduction in arrearages with the court and provide a copy of the notice to the obligor that reflects the adjusted amount of any arrearage. However, judicial approval is not required to effectuate an agreement under the program.

An agreement is terminated if the obligor fails to make payments equal to two times the monthly support obligation amount. An obligor who has been terminated from the program more than two times is not eligible for future participation.

CSEA is required to develop an application form for obligors. Within 60 days after receipt of a request from an obligor, CSEA must provide a written decision on program participation to the obligor. If CSEA does not authorize participation, CSEA must notify the obligor of the decision and the obligor's right to appeal the decision to the Office of Administrative Hearings.

If an unemployed obligor applies to participate in the program, CSEA must provide referrals to the obligor for programs that prepare individuals for entry into the workforce. CSEA and each local support enforcement office must jointly develop a statewide public awareness campaign on the availability of the program and the application procedures. The Secretary of Human Resources is authorized to develop regulations to implement the program.

Current Law: Subject to the best interest of the child, if CSEA considers it to be in the best interest of the State, in a case where a child support recipient assigns his/her right to child support in exchange for TCA, CSEA may accept an amount that is less than the total arrearage as full settlement of a child support obligation. On request of CSEA, the court may approve by order an amount that is less than the total arrearage as full settlement. In a case in which an assignment is made, there is a presumption that it is in the best interest of the State to accept as full settlement an amount that is less than the total arrearage under specified circumstances. The presumption applies if:

- the obligor, the TCA recipient, and the child who is the subject of the support order have resided together for at least the 12 months immediately preceding a request for settlement;
- the obligor and the child who is the subject of the support agreement have resided together for at least the 12 months preceding a request for settlement and the TCA recipient is deceased, incapacitated or otherwise unavailable to reside with the obligor and child. However, the TCA recipient may not be considered incapacitated or unavailable due solely to a change in legal or physical custody;
- the obligor has been supporting the child for at least the 12 months immediately preceding a request for settlement; and
- the gross income of the obligor is less than 225% of the federal poverty level.

If CSEA does not accept in full settlement of an arrearage in child support payments an amount that is less than the total arrearage, CSEA must notify the obligor of the decision and of the obligor's right to appeal the decision to the Office of Administrative Hearings.

State Revenues: Special fund revenues could increase to the extent that CSEA is able to increase child support collections, offset to some extent by the reduced collection of arrearages from obligors who participate successfully in the program. Given that the eligible program participants must have gross income less than 225% of the federal poverty level and that the participants must make a minimum of 12 months of uninterrupted payments to receive any reduction of the arrearage, it is anticipated that special fund revenues would increase by a minimal amount. By way of illustration, CSEA advises that for federal fiscal 2006, 26,547 TCA cases were processed. TCA recipients must assign their support payments to the State and federal governments 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. Accordingly, the State and federal governments would share equally in collection revenues.

State Expenditures: Total State expenditures could increase by \$557,420 in fiscal 2008 (\$367,897 federal funds/\$189,523 general funds) to provide (1) computer programming modifications to track program participants; (2) design, printing and distribution of brochures for the required public education campaign; and (3) mailing costs. The computer programming estimated expenditure of \$432,420 (\$285,397 federal funds/\$147,023 general funds) and the public education expenditure of \$125,000 (\$82,500 federal funds/\$42,500 general funds) is for fiscal 2008 only. Out-year expenditures are limited to the mailing of notices and include annualization and inflation and assume that the number of notices to the court and obligors remains constant.

Additional Information

Prior Introductions: This bill is a reintroduction of HB 1264 of 2006, which passed the House but was given an unfavorable report by the Senate Judicial Proceedings Committee.

Cross File: SB 154 (Senator Forehand, *et al.*) – Judicial Proceedings.

Information Source(s): Department of Human Resources, Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - February 6, 2007
ncs/jr

Analysis by: Karen D. Morgan

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