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FISCAL IMPACT STATEMENT

LS 6804
BILL NUMBER: SB 163

NOTE PREPARED: Feb 18, 2010
BILL AMENDED: Feb 18, 2010

SUBJECT: Various Child Support Matters.

FIRST AUTHOR: Sen. Bray
FIRST SPONSOR: Rep. L. Lawson

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- (1) Requires persons who own or operate a river boat licensed as a gambling operation or a horse racetrack licensed for gambling games to withhold cash winnings of obligors for amounts the obligors are delinquent in child support.
- (2) Allows persons who own or operate a river boat licensed as a gambling operation or a horse racetrack licensed for gambling games to deduct and retain an administrative fee in relation to withholding the obligor's delinquent child support.
- (3) Requires the: (a) Gaming Commission to place on probationary status, suspend, and deny licenses for gambling games at horse racetracks; and (b) the Alcohol and Tobacco Commission to place on probationary status, suspend, and deny employee's permits; of certain obligors who are delinquent in child support.
- (4) Provides that a person whose driving license is suspended because of delinquent child support is not required to pay a reinstatement fee to have the person's driving license reinstated.
- (5) Provides that the Child Support Bureau (CSB) and certain contractors of the bureau may be granted access to information in certain state systems and in certain records of state agencies and other entities, subject to policies adopted to prevent disclosure of certain law enforcement information.
- (6) Requires a court to immediately withhold income under a child support order established in any proceeding.
- (7) Provides that a parent, custodian, or guardian of child who refuses to cooperate in: (a) a paternity action; or (b) the establishment or enforcement of a child support order; is subject to sanctions or revocation or suspension of Temporary Assistance for Needy Families (TANF).
- (8) Requires a guardian or custodian of a child to make a good faith effort to cooperate with the CSB and certain other agencies regarding certain paternity and child support matters.

- (9) Requires a custodial parent and noncustodial parent to provide certain information to the clerk of the court.
- (10) Provides that a court may consider a child emancipated if the child is on active duty in the United States armed forces. (Current law provides that a court may consider a child emancipated if the child has joined the United States armed forces).
- (11) Provides that the income withholding provisions apply to any proceeding in which child support is established.
- (12) Requires an employer to transfer the National Medical Support Notice to the employer's health insurance plan within 20 days after the date of the National Medical Support Notice.
- (13) Requires an income withholding order form to contain certain information.
- (14) Provides that an income payor may not distribute income in a manner that would result in one of the current child support obligations not being honored.
- (15) Provides that an income payor is not required to vary the income payor's normal pay and distribution cycles in order to comply with the income withholding provisions.
- (16) Requires that a court or administrative agency deem due process met if certain requirements have been met.
- (17) Provides that various persons are immune from civil and criminal liability for certain acts or for failures to act.
- (18) Prohibits a person from disclaiming an interest in property up to the extent of the person's child support arrearage.
- (19) Prohibits a court from considering a parent's absence or relocation due to active military duty as a factor in determining custody or permanently modifying a child custody order.
- (20) Provides that if a court temporarily modifies a custody order due to a parent's active duty service, the order temporarily modifying the custody order terminates automatically not later than 10 days after the date the parent notifies the temporary custodian in writing that the parent has returned from active duty service.
- (21) Makes a technical correction.

Effective Date: July 1, 2010.

Explanation of State Expenditures: *Summary:* This bill is expected to increase the workload of the Indiana Gaming Commission, the Indiana Alcohol and Tobacco Commission, the Child Support Bureau (CSB), and possibly other state agencies to provide information to the CSB and the local prosecuting attorney to track child support delinquents. Additionally, the bill may either result in a decrease in TANF expenditures or a diversion of resources to other benefit applicants.

Additional Information:

Indiana Gaming Commission and Indiana Alcohol and Tobacco Commission: This bill may increase the workload of the two commissions to ensure (1) certain licensees and racino permit holders and trustees meet child support obligations and (2) casinos and racinos withhold the gaming winnings of child support delinquents.

Child Support Bureau: The CSB would be required to provide information to the Indiana Gaming Commission, the Indiana Alcohol and Tobacco Commission, casinos, and racinos in order to identify child support delinquents. Currently, the CSB does not provide information concerning child support delinquents to these entities.

Information Requests: Under the bill, the Criminal Justice Data Division, the Indiana State Department of Health, the Department of State Revenue, the Indiana Professional Licensing Board, Indiana Department of Corrections, Indiana Economic Development Corporation, and the Family and Social Services Administration, among others may experience increases in workload to the extent this bill increases information requests made by either the CSB or the local prosecuting attorney to locate child support delinquents. Increases in workload are indeterminable.

TANF: Under the bill, some individuals that receive TANF may suffer either (a) sanctions, (b) suspension, or (c) revocation of TANF benefits for failing to cooperate in a paternity action or establishment of child support order. If either there is (1) an increase in the number of individuals who have TANF benefits suspended or revoked, or (2) a decrease in the amount of TANF benefits administered, state expenditures for TANF benefits may not necessarily decrease if resources are diverted to other TANF applicants.

Indiana Support Enforcement Tracking System (ISETS): The bill also changes what information (1) must be maintained in the ISETS and (2) is provided on income withholding forms provided to employers. The information required is already maintained in ISETS and on income withholding forms and would result in no fiscal impact.

Explanation of State Revenues: *Summary:* This bill has several provisions that may increase state collections of unpaid child support. To the extent this is accomplished, Indiana may become more competitive with other states for federal IV-D incentive funds.

This bill also exempts individuals that have their driver's license suspended due to unpaid child support from paying reinstatement fees. This provision is expected to have no fiscal impact as this reinstatement fee is currently not collected.

Additional Information:

Professional Licensing/Permits: This bill establishes procedures to collect unpaid child support from the permit holder/trustee of a racino, and employees permitted to work as either a bartender, waiter, waitress, or manager at a retail establishment. This bill may increase child support collections in the state by increasing the number of individuals who pay child support in order to avoid having either their professional license or permit suspended or revoked.

Immediate Withholding of Earnings: Under the bill, courts would be required to immediately withhold the income of individuals after any proceeding (including dissolution of marriage and paternity determinations). This may increase the number of income withholdings in the state.

Emancipation through Active Duty: By changing statute regarding emancipation for military service, more individuals would be required to pay child support. Currently, a child under the age of 21 is considered emancipated, and no longer due child support, if he or she enlists in the armed forces. The bill changes emancipation to when a child is on active duty. This will increase child support payments in the state for those individuals who are less than 21 years of age, enlisted in the armed services, but are not on active duty (most notably members of the National Guard or another reserve component of the armed forces).

Casino and Racino Sanctions: Casino and racino owners, operating agents, and trustees that fail to withhold the winnings of child support delinquents are subject to sanctions and penalties established by the Indiana

Gaming Commission. This may increase state revenue to the extent these sanctions and penalties are exercised against offenders. Increases in state revenue are indeterminable, but expected to be small.

(Revised) *Cooperation in Child Support Matters*: The bill specifies which acts constitute cooperating with state and local authorities for child support matters. To the extent the bill increases cooperation in establishing child support and identifying individuals who are obligated to pay child support, and this support is collected, Indiana may become more competitive for federal IV-D funds. Actual increases are unknown.

(Revised) *Intercepting Casino and Racino Winnings*: The bill requires the (1) licensed owner of a casino, (2) operating agent/trustee of a casino, and (3) permit holder/trustee of a racino to collect unpaid child support from gambling winnings. This will increase state collections of unpaid child support to the extent individuals who owe child support are due gambling winnings. Collections of unpaid child support would be collected after federal and state taxes are withheld from an individual's gambling winnings.

Disclaimer of an Interest in Property: This bill will prohibit individuals from disclaiming an interest in property (i.e., inheritance) up to the amount of an individual's owed child support. Any increase in child support collections is expected to be minimal.

Driver's License Reinstatement: Under the bill, individuals who have their driver's licenses reinstated would not be subject to the fees listed in IC 9-29-10-1 for license reinstatement. DCS reports this will not decrease state revenue as the reinstatement fee for driver's licenses suspended or revoked due to unpaid child support has not been collected.

Background Information: The current reinstatement fees provided under IC 9-29-10-1 are; (1) \$150 for the first suspension, (2) \$225 for a second suspension, (3) and \$300 for a third or subsequent suspension. All except \$30 of the reinstatement fee is deposited into the Financial Responsibility Compliance Verification Fund established by IC 9-25-9-7. The remaining \$30 is deposited into the Motor Vehicle Highway Account. For FY 2009, the balance of the Financial Responsibility Compliance Verification Fund was approximately \$152,000. The Bureau of Motor Vehicles (BMV) reports there were 1,282 license suspensions/revocations that were reinstated in 2009 and 1,027 in 2008. Of these, it is unknown how many may have paid a reinstatement fee (if any) and how many suspensions each individual has.

The federal IV-D program consists of a static amount of performance-based grants awarded to states (on a competitive basis) depending on performance regarding specified metrics. These metrics include: (1) paternity-establishment performance level, (2) support order enforcement performance level, (3) current payment performance level, (4) arrearage performance level, and (5) cost-effectiveness performance level.

Indiana's most recent performance rankings under the IV-D funding metrics for FFY 2008 are as follows: (1) 20th in paternity establishment, (2) 41st in support order establishment, (3) 41st in current support collections, (4) 25th in cases paying on arrears, and (5) 14th in cost effectiveness. The first three metrics have more weight than the last two metrics when calculating the IV-D funding a state receives. In FFY 2007, Indiana received \$9,125,000 in IV-D funding, which was an increase from FFY 2006 (\$8,190,000).

Explanation of Local Expenditures: This bill will increase the workload of local law enforcement and county jails to the extent this bill increases information requests made by either the CSB or the local prosecuting attorney to locate child support delinquents. Increases in workload are indeterminable.

The bill also adds responsibilities a court must complete in child support and paternity determination cases. Additionally, the bill does not allow a court to adjust custody or visitation rights of a noncustodial parent as a result of active duty service in the armed forces of the United States or National Guard. These provisions will impact court workload minimally.

Additionally, this bill may also increase the number of requests for an administrative hearing held by the county IV-D prosecutor regarding the suspension/revocation of a license or permit of (1) a permit holder/trustee of a racino, and (2) an employee permitted to work as either a bartender, waiter, waitress, or manager at a retail establishment, that is suspended or revoked as a result of delinquent on child support payments. The bill would also require the county IV-D prosecutor to provide information on child support delinquents to the Indiana Gaming Commission.

Explanation of Local Revenues:

State Agencies Affected: CSB of the Department of Child Services; Indiana Gaming Commission; BMV.

Local Agencies Affected: Local law enforcement; County jails; Local courts; County prosecuting attorney.

Information Sources: Ellen Holland, DCS; Cynthia Longest, CSB.

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