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BILL ANALYSIS

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Senate Bill 892 (Substitute S-1 as passed by the Senate)
Senate Bill 893 (Substitute S-1 as passed by the Senate)
Senate Bill 894 (Substitute S-1 as passed by the Senate)

Sponsor: Senator Bill Hardiman (S.B. 892)
Senator Alan L. Cropsy (S.B. 893)
Senator Irma Clark-Coleman (S.B. 894)

Committee: Families and Human Services

Date Completed: 12-12-05

RATIONALE

The Social Welfare Act was last subject to major revision in 1995, when the legislature enacted Public Acts 223 and 224. The amendments established new eligibility criteria for assistance, imposed stricter penalties for fraud or noncompliance with the Act, and required recipients to develop a social contract with the newly renamed Family Independence Agency (now the Department of Human Services), including an agreement to participate in the Work First program as a condition for receiving assistance, with some exceptions.

Work First is a training and employment program for recipients of family independence assistance. The program was first created by executive order in 1994 as part of the Michigan Jobs Commission, but Work First requirements were not codified in the Social Welfare Act until 1995. The Act requires recipients to participate in Work First work or training activities for 40 hours a week to remain eligible for family independence assistance, unless they are exempted under the Act. Individuals exempt from Work First requirements include a child under the age of 16, a child over 16 or a minor parent who is attending elementary or secondary school full-time, the parent of a child under the age of three months, an individual over the age of 65, a recipient of Supplemental Security Income, an individual with certain physical or mental disabilities, or the spouse and full-time caregiver of an individual with certain physical or mental disabilities.

Those exemptions, along with penalties for noncompliance with the Act, are due to expire after December 31, 2005. Some believe that these provisions should be extended and, at the same time, the Act should be substantially revised. In October, a task force composed of members of the Senate and the House of Representatives along with several staff members was appointed to study potential changes to the Act. Although the task force did not produce a written report, members of the task force have made recommendations for amending the Act.

CONTENT

Senate Bill 892 (S-1) would amend the Social Welfare Act to do the following:

- Postpone the expiration of certain exemptions from Work First requirements and certain penalties under the Act until December 31, 2010.**
- Require each family receiving family independence assistance to develop a family independence plan that would include the recipient's goals, responsibilities, expectations, and current barriers to employment and self-sufficiency, in place of the current requirement for a social contract.**
- Require an individual unable to find employment through the Work First program to participate in training or**

counseling for at least 10 hours per week.

- Require a recipient of family independence assistance who lacked a high school diploma or GED to enroll in an English as a second language program, a fast track literacy program, a high school completion course, or a GED preparation course.
- Allow a temporary exemption from Work First for an individual who could not participate due to the effects of domestic violence.
- Allow an individual to count up to 20 hours of education or training once toward the 40-hour-per-week work requirement for up to 24 months under certain conditions.
- Allow an individual one six-month exemption from Work First work requirements for education or training under certain conditions.
- Establish as a State goal for the Family Independence Program (FIP) caseload at least 50% involvement in employment activities, and require the Department of Human Services (DHS) to report the current percentage to the Legislature each quarter.
- Require the DHS and the Department of Labor and Economic Growth (DLEG) to track FIP recipients and Work First participants by Social Security number; and require the tracking information to be shared between the DHS and DLEG and provided to the Legislature.
- Require the DHS to study the cost of increasing the amount of earned income that is disregarded in determining an individual's eligibility for FIP assistance, and to report its findings to the Legislature and other State agencies by April 1, 2006.

Senate Bill 893 (S-1) would amend the Social Welfare Act to set a 48-month cumulative lifetime limit on family independence assistance, subject to a maximum 12-month extension under certain circumstances; revise the penalties for noncompliance with provisions of the Act and rules; and require the DHS, upon termination of assistance, to provide to recipients information on obtaining food assistance, assistance under the

Women, Infants and Children (WIC) program, and other programs.

Senate Bill 894 (S-1) would amend the Social Welfare Act to postpone a required joint orientation session until after the DHS had determined that an individual was eligible for family independence assistance; require an individual to undergo an initial assessment of certain skills and abilities before receiving assistance; and require an individual lacking basic life skills necessary to maintain employment to be referred for additional assessment and training in basic life skills.

The bills are described in detail below.

Senate Bill 892 (S-1)

Currently, certain exemptions from Work First requirements and certain penalties under the Act will not apply after December 31, 2005. The bill would change the date to December 31, 2010.

The Act requires each family receiving family independence assistance to execute a social contract outlining the responsibilities of members of the family independence assistance group. The contract is to be developed jointly by the DHS and the adult family members. Rather than a social contract, the bill would refer to a family independence plan. (The Act defines "family independence assistance group" as all members of a program group who receive family independence assistance. "Program group" means a family and all individuals living with a family whose income and assets are considered in determining eligibility for family independence assistance.)

A family independence plan must meet the current requirements for a social contract, as well as outline the goals, responsibilities, expectations, and sanctions that the recipient was contractually obligated to follow and a list of the family's current barriers to employment and self-sufficiency.

Under the bill, DLEG would have to monitor a family's compliance with the family independence plan for all recipients who were referred to participate in the Work First program. A recipient would have to review, sign, and date the family independence plan

each time he or she met with a caseworker from the DHS or DLEG, including when the recipient had an instance of noncompliance or failed to meet an expectation of the family independence plan.

If a recipient were unable to find employment or be placed by the Work First program into a job and therefore were not fulfilling his or her obligation to participate in Work First, he or she would have to participate in training or counseling for at least 10 hours per week in any of the following areas considered relevant and appropriate by the Work First counselor: marriage, fatherhood, parenting, self-improvement, substance abuse, or volunteer activities.

Under the Act, a recipient who has cooperated with Work First may enroll in a training or education program approved by the local workforce development board. Other than high school completion and GED preparation, all training or education must be occupationally relevant and in demand in the local market. The bill also would make an exception for an English as a second language program and a fast track literacy program. The bill would delete provisions under which an approved program may not be longer than two years, and participants must make satisfactory progress in the program.

Under the bill, a recipient who did not have a high school diploma or GED and was unable to sustain employment would have to enroll in an English as a second language program, a fast track literacy program, a high school completion course, or a GED preparation course.

The Act exempts certain individuals, including the parent of a child under the age of three months, from participation in Work First. A parent receiving this exemption may be required to participate in family services, including instruction in parenting, nutrition, and child development, beginning six weeks after the birth of the child until the child is three months old. Under the bill, the family services also could include marriage and fatherhood classes or counseling, and exempted parents would be required to participate in family services.

The Act allows the Department to grant a maximum 90-day exemption from

participation in Work First for an individual suffering from a documented short-term mental or physical illness, limitation, or disability that severely restricts his or her ability to participate in employment or training activities. Under the bill, the DHS could not exempt an individual from participation in Work First if he or she had received an initial determination from the Social Security Administration denying Supplemental Security Income (SSI) benefits. The DHS could exempt an individual if he or she had applied for SSI benefits but had not yet received an initial determination, only if the individual could document a mental or physical illness, limitation, or disability that resulted in an inability to engage in any substantial gainful activity and could be expected to result in death or had lasted or could be expected to last at least 12 months.

The bill would allow the DHS to grant a temporary exemption also to an individual who was unable to participate in Work First due directly to the effects of domestic violence.

The bill provides that the Work First caseworker, at his or her discretion, could authorize a recipient's request to enroll in education or training and count up to 20 hours per week of that education toward his or her 40-hour-per-week work requirement, for a maximum total of 24 months in the recipient's lifetime. The education and training course requirements and responsibilities, including attendance, performance, and minimum grade point average, would have to be outlined in the recipient's family independence plan.

Alternatively, in his or her discretion, the Work First counselor could authorize a recipient's exemption from Work First work requirements for a maximum of six months in the client's lifetime if the recipient could demonstrate that there was a current demand for workers with the education or training that he or she was seeking. The education or training course requirements and responsibilities, including attendance, performance, and minimum grade point average, would have to be outlined in the recipient's family independence plan. The recipient would have to meet with his or her Work First caseworker at least every 45 days, and if he or she were not in compliance with the expectations outlined in

the family independence plan, the recipient would be prohibited from using education or training toward his or her 40-hour-per-week work requirement.

A recipient participating in education or training to meet the 40-hour-per-week work requirement would have to meet with his or her caseworker at least every 90 days. If the recipient were not in compliance with the expectations outlined in the family independence plan, he or she would be prohibited from using education or training toward his or her 40-hour-per-week work requirement.

The bill would require the DHS to study the impact and cost of increasing the amount of earned income that was disregarded in determining a program group member's income for continued eligibility for family independence assistance. The DHS would have to prepare a written report of its findings and provide the report to the Senate and House Appropriations Committees, the Appropriations subcommittees on the DHS, the Senate and House Fiscal Agencies, and the Senate and House policy staff by April 1, 2006.

The bill would require the DHS to track all FIP recipients by Social Security number so that tracking information would be traceable for a recipient's lifetime. Also, DLEG would have to track Work First participants by Social Security number and the recipient's job status for at least one year after job placement. This information would have to be shared between the DHS and DLEG, and would have to be provided to the Legislature, standing committees, and Appropriations Committees during the annual budget review.

The DHS and DLEG would have to develop individual program goals and measurable performance indicators to be reviewed for success or failure annually. One program goal would have to be a State goal for the percentage of the FIP caseload involved in employment activities, which would have to be developed jointly by the Departments, and could not be less than 50% of the caseload. The annual success or failure rates of the goals would have to be reported to the Legislature.

On a quarterly basis, the DHS would be required to report the current percentage of

the FIP caseload involved in employment activities to the Senate and House Appropriations subcommittees on the DHS, the Senate and House Fiscal Agencies, and the Senate and House policy staffs. If the percentage were below the goal for more than two consecutive quarters, the DHS would be required to develop a plan for increasing the percentage of the caseload involved in employment-related activities, and would have to deliver the plan during the following annual budget presentations to the Appropriations subcommittees on the DHS in the Senate and House.

Senate Bill 893 (S-1)

Under the bill, any recipient who was not exempt from Work First participation under the Act could receive family independence assistance for a maximum cumulative total of 48 months during his or her lifetime. If the recipient were meeting all of the requirements outlined in his or her family independence plan, and labor market conditions or employment barriers prevented employment placement, a recipient could apply to the DHS for a maximum 12-month extension of assistance over the 48-month cumulative lifetime total.

The Act requires the DHS to develop a system of penalties to be imposed if a recipient fails to comply with provisions in the Act or applicable rules. Penalties may be cumulative and may include reduction of the grant, removal of an individual from the family independence assistance group, and termination of assistance to the family. The bill would delete these provisions, and instead would require the DHS to develop a system of penalties to comply with provisions in the Act or applicable rules. If a recipient demonstrated noncompliance or did not meet his or her family independence plan expectations, the DHS would have to impose a penalty as follows:

- For the first instance of noncompliance or failure to meet an expectation in the family independence plan, the recipient would be ineligible for FIP assistance for at least one calendar month.
- For the second instance, the recipient would be ineligible for FIP assistance for at least two calendar months.
- For the third instance within a 24-month period, the recipient would be ineligible for FIP assistance for at least 24 months.

Currently, if good cause is not determined to exist for any instance of noncompliance, assistance must be terminated for at least one calendar month. The bill would delete this requirement.

The Act had required the Department to submit to the Legislature, the Senate and House Fiscal Agencies, and the appropriate Senate and House standing committees, a report on sanctions imposed for the period between February 1, 2002, and December 31, 2002. The bill would require that the DHS submit such a report annually.

The bill states that after termination of family independence assistance benefits for noncompliance, failure to meet an expectation listed in the family independence plan, or reaching the 48-month lifetime cumulative total allowable under the bill, the DHS would have to provide to the recipient information on obtaining food assistance, assistance under the WIC program, free and reduced lunches, earned income tax credit, and any other relevant program or service that the DHS determined could assist the family.

The bill would require the DHS to make available to recipients of assistance under the Act educational and informational materials relating to adoption.

Senate Bill 894 (S-1)

The Act requires an individual, as a condition of eligibility before receiving family independence assistance, to attend a joint orientation session conducted by the DHS and DLEG after the DHS has made an initial determination that the individual might be eligible for FIP assistance. The bill, instead, would require an individual to attend a joint orientation session after the DHS had determined that the individual was eligible for assistance.

Under the bill, the joint orientation sessions would have to include an initial assessment of the applicant, including at least a literacy and skills determination, job readiness assessment, a basic skills identifier, and mental or physical barriers or disability assessment.

In addition, the orientation sessions would have to include basic life skills orientation to prepare the individual for employment. If

the initial assessment indicated that the individual did not have the basic life skills required to maintain employment, he or she would have to be immediately referred for further assessment and training or education in basic life skills.

The Act states that if an individual fails to cooperate with Work First joint orientation or other required employment and training activities, the family is ineligible for FIP assistance. The bill would remove the reference to the joint orientation.

Under the Act, the DHS may impose penalties if an individual fails to comply with his or her social contract requirements. Under the bill, the DHS would be required to impose penalties, and rather than a social contract, the bill would refer to a family independence plan.

The bill would require a recipient who received a penalty resulting in termination from the Family Independence Program for 30 days or more to attend a joint meeting with a family independence caseworker and a Work First program caseworker.

MCL 400.14i et al. (S.B. 892)
MCL 400.43 & 400.57g (S.B. 893)
MCL 400.57d & 400.57g (S.B. 894)

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

Family independence assistance should not be a permanent or long-term program, but a temporary boost to enable people to develop the skills necessary to become self sufficient and get out of a cycle of dependency. While accomplishing this also was a goal of the 1995 reforms, these bills would take additional steps to ensure that recipients received the necessary education and training to achieve self-sufficiency. Initially, under Senate Bills 892 (S-1) and 894 (S-1), a recipient's individual needs and skills would have to be evaluated, and his or her barriers to employment would be identified. The would enable a person's family independence plan and placement to be tailored to his or her circumstances. Senate Bill 892 (S-1) also would provide for follow-up by requiring the DHS to monitor a

recipient's compliance with the plan, which could result in long-term job retention. In addition, the bill would give recipients flexibility to meet Work First requirements by counting up to 20 hours of education or training per week toward the 40-hour weekly work requirement, for up to 24 months. This recognizes that many recipients need to develop basic skills or earn a GED or high school diploma before they can be gainfully employed. Further, Senate Bill 893 (S-1) would give an individual four years, plus a possible 12-month extension, to work toward self-sufficiency, and would impose graduated sanctions for noncompliance. The bills would provide an impetus for individuals to work towards self-sufficiency.

Supporting Argument

Senate Bill 892 (S-1) would help address barriers to employment among some people by requiring at least 10 hours per week of counseling services for recipients unable to find a placement through the Work First program. These counseling services could help individuals to resolve the issues that prevent them from finding and maintaining employment, including substance abuse.

Similarly, learning disabilities or mental health issues can be a substantial impediment for individuals trying to enter the workforce. The counseling services made available under the bill could be invaluable to these individuals.

In addition, strong family structures are crucial to providing a stable environment for working, living, and raising children. The bill would help to strengthen families by offering counseling in marriage, fatherhood, and parenting.

Response: The substance abuse and other counseling services would be available only for individuals who were unable to find work. If counseling were available initially to those who needed it, the services could help an individual stay employed, rather than waiting for the problem to become so severe that it costs the person his or her job. Most people who receive treatment for a substance abuse problem are able to overcome their addiction and lead productive lives. Likewise, mental health issues can be successfully treated and individuals can overcome these obstacles if they have access to counseling. These services should not be restricted to people

who have lost their jobs or are unable to find employment.

Opposing Argument

The proposed lifetime limit on benefits is unnecessary and would be extremely restrictive, if not punitive. Michigan's welfare reform efforts in 1995 reduced the caseload significantly, from about 225,000 in 1994 to about 77,000 today. The individuals left on FIP assistance are the ones who need help the most. Even with food stamps or other governmental programs, many of these people could end up homeless or in very difficult situations without FIP assistance. According to testimony given before the Senate Committee, more than two out of three recipients of public assistance are children, most under the age of five. Imposing a lifetime limit on benefits could have serious consequences for these children. The bills should give the DHS some flexibility to allow for unforeseeable circumstances that could leave a family without options. Otherwise, some people inevitably would fall through the cracks. Every situation a family might encounter cannot be predicted, and the DHS should have the ability to respond to extreme cases.

Furthermore, self-sufficiency does not merely mean being removed from public assistance: It means that a person can support himself or herself and his or her family in gainful, long-term employment. At a time when Michigan consistently ranks among the top two or three states in unemployment levels and no job growth is predicted, setting a lifetime limit on benefits simply would not reflect the reality of the economy.

Response: After the four or five year time limit expired, individuals would not be left totally on their own. They would still be eligible for food stamps, the child tax credit, free and reduced lunches, and other State and Federal programs.

Opposing Argument

Education and skill development are crucial to helping individuals to gain and maintain employment. Senate Bill 892 (S-1), however, would place several limits on the educational opportunities for participants in the Work First program. The bill would offer participants a six-month exemption from Work First work requirements for training or education, or allow individuals to count up to

20 hours a week of education or training toward the Work First work requirement for a maximum of 24 months. Many educational or training programs are longer than six months, however. For example, there is currently a need for nurses and laboratory assistants. These employment opportunities would provide an adequate income to support a family, but the required training takes longer than six months. The six-month exemption should be extended to one year, or exemptions should be made for internships, intensive career training, or the completion of licensure requirements.

In addition, the 24-month limit on counting education or training toward the Work First work requirement would be too restrictive. An individual with no high school diploma might be able to get a GED in 24 months, but that would not necessarily give the person enough skills to find employment. In fact, individuals may need to return to school more than once for retraining in order to gain new marketable skills as the economy changes. The 24-month limit should not apply to GED preparation or similar programs.

Also, some individuals balancing work and education may not be able to attend school or training for the full 20 hours a week, and consequently may take longer than 24 months to finish a program. In some cases, scheduling difficulties or other events may force an individual to wait until the next term to take a class. Recipients who could not use the full 20-hour-per-week educational credit should be given longer than 24 months. The educational opportunities provided under the bill could help participants to become self sufficient, but they should be more flexible to allow all recipients to take advantage of them.

Opposing Argument

The increased sanctions in Senate Bill 893 (S-1) are unnecessary. Michigan's penalties for noncompliance already are tougher than those of many other states, and the DHS currently is able to impose stiffer sanctions when necessary. Recipients with the greatest number of barriers to employment are more likely to be sanctioned, and their children are more at risk developmentally, as well as more likely to have contact with the State's child welfare system, according to testimony by Voices for Michigan's Children. Under the proposed penalties,

parents could be left with no means to provide for the basic needs of their children. Rather than increasing the sanctions, the bill should require the DHS to apply the sanctions currently in place consistently and fairly. The focus of this legislation should be on helping people out of poverty, not penalizing them.

In addition, if a person lost his or her Work First placement because of a relapse into substance abuse, the individual could be punished twice under the bill, if the relapse and the loss of the placement were counted as separate occurrences. The sanctions could cut off benefits to the individual when he or she especially needed help to overcome the addiction that was the cause of the problem.

Opposing Argument

Senate Bill 892 (S-1) would mandate participation in family services for the parent of an infant between six weeks and three months old, in order for the parent to be exempt from Work First. Currently, requiring this participation is at the discretion of the DHS. Mandatory participation could be problematic without good-cause exemptions related to the health of the parent or infant, the availability of appropriate programs within a reasonable distance, the availability of transportation, and access to child care for infants and their siblings.

Opposing Argument

Senate Bill 892 (s-1) would require the DHS to set a goal that 50% of its FIP caseload be involved in employment activities. However, a significant number of the individuals receiving assistance are children, or are otherwise exempt from work requirements under Work First. Additionally, during an economic slowdown, many individuals may not be able to find work, hampering the DHS's ability to meet the target percentage. These factors are beyond the Department's control. While goals and performance measures are essential to improving the effectiveness of the program, a better approach might be to focus on specific target groups rather than establishing broad goals for the caseload as a whole.

Opposing Argument

Under Senate Bill 892 (S-1), a person who was initially denied Supplementary Security Income assistance would not be eligible for

an exemption from Work First work requirements. Many people who are initially denied assistance, however, are approved upon appeal. An individual should be allowed to maintain the exemption from Work First at least until the Social Security Administration reached a final decision.

Opposing Argument

Senate Bill 893 (S-1) specifically would require the DHS to make available information on adoption, but there is no mention of other services available through the Federally funded Title X family planning program, such as information on contraception and abstinence and complete gynecological services. The bill should require that recipients be made aware of these existing Federally funded services.

Opposing Argument

By compiling individually identifiable data for recipients using Social Security numbers, as Senate Bill 892 (S-1) would require, the DHS and DLEG could be exposing recipients to potential identity theft. The Departments should not use Social Security numbers for tracking purposes, and should report only aggregate data to protect the privacy and identities of the individuals involved.

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bills would have a fiscal impact on State government. The bills would provide sanctions that would close cases not in compliance with the family independence plan. If an estimated 16% of cases closed for half of FY 2005-06, approximately \$30 million would be saved. The bills would provide for an increased number of recipients expected to work. If the bills provided a 12% increase in cases with income in the first year, approximately \$37.5 million in income would offset the cost of full grant payments. The extended monitoring of recipients referred to the Work First Program would increase the costs for Michigan Works Agency services; services for approximately 19,800 additional cases would cost about \$35 million. In addition, full-time equated positions would be needed for monitoring cases; if 40 county or multiple-county sites were served, the cost would be about \$2.5 million.

The amendments would affect by immediate closure approximately 17% of the caseload due to a 48 month life-time limit on cash assistance. An estimated savings of \$34 million would result if none of the cases were provided an extension of benefits and closed for 6 months of the fiscal year.

Fiscal Analyst: Constance Cole

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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.