

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 314

Children and Human Resources Committee Substitute Adopted 5/12/93

Short Title: GPAC/Child Support Reform.

(Public)

Sponsors:

Referred to: Appropriations.

February 22, 1993

A BILL TO BE ENTITLED

AN ACT TO RESTRUCTURE THE CHILD SUPPORT SYSTEM IN NORTH CAROLINA, TO ESTABLISH A CHILD SUPPORT OVERSIGHT COMMISSION, AND TO CREATE A CHILD SUPPORT FUND TO OFFSET INCREASED COSTS TO THE CHILD SUPPORT ENFORCEMENT AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. (a) By January 1, 1994, the Secretary of Human Resources and the Director of the Administrative Office of the Courts in consultation with the North Carolina Association of County Commissioners shall select up to six counties on a voluntary basis in which to (i) begin restructuring the State child support system by centralizing the child support enforcement services in the IV-D agencies in those counties, (ii) determine the actual cost of providing child support services under the restructured system, and (iii) assess the mechanics of further transition to statewide implementation of the restructured system.

(b) Before July 1, 1996, the Secretary of Human Resources and the Director of the Administrative Office of the Courts in consultation with the North Carolina Association of County Commissioners may select additional counties to implement the restructured system.

(c) On or before August 15, 1994, the Secretary of Human Resources and the Director of the Administrative Office of the Courts in consultation with the North Carolina Association of County Commissioners shall submit to the Child Support Oversight Commission a report of the results of operating the restructured system in the counties selected under this section.

1 (d) Implementation of the new system in the remaining counties of the State shall
2 commence July 1, 1996.

3 (e) Before July 1, 1996, the Social Services Commission shall establish
4 standards and adopt rules for the implementation and operation of the State-supervised
5 child support system. The Department of Human Resources shall make regular reports
6 to the Child Support Oversight Commission on the rules and the standards developed.

7 Sec. 2. (a) In addition to the definitions in G.S. 110-129, the following
8 definitions apply in this section:

9 (1) Implementation date. – The date on which the restructured child
10 support system is implemented in a county selected under Section 1 of
11 this act.

12 (2) Child Support Enforcement Agency. – The agency that administers the
13 Child Support Enforcement Program in a county after the
14 implementation date.

15 (b) Except as otherwise provided in this section, all other child support laws of
16 this State, including without limitation Chapter 49, Articles 1 and 2 of Chapter 50,
17 Chapter 52A, and Article 9 of Chapter 110 of the General Statutes, shall apply in a
18 county after it has been selected under Section 1 of this act with the same force and
19 effect as if this section had not been enacted.

20 (c) On or before the implementation date, the clerk of superior court and the
21 Child Support Enforcement Agency shall give the parties in all existing cases any
22 information that is necessary or appropriate to enable a reasonable person to understand
23 the changes in the enforcement of child support that will occur as a result of the
24 implementation of the restructured child support system in the county. In so doing, the
25 clerk and the Child Support Enforcement Agency shall comply with any procedures or
26 guidelines that the Department of Human Resources and the Administrative Office of
27 the Courts may prescribe.

28 (d) Until it is specifically modified by the court, expires by its own terms, or
29 expires by operation of law, each child support order in existence on the implementation
30 date and any income withholding that had been implemented in a child support case
31 before the implementation date shall remain in full force and effect. However, unless
32 the court specifically orders otherwise, all child support orders entered or modified on
33 or after the implementation date shall provide for payment through the clerk of superior
34 court, shall contain the provisions required by G.S. 110-136.3(a), and shall be handled
35 as follows:

36 (1) In each IV-D case:

37 a. Upon receipt of any child support payment, the clerk shall
38 promptly transmit the payment to the Department of Human
39 Resources, and the Department shall promptly disburse the
40 payment to the proper obligee or obligees;

41 b. The Child Support Enforcement Agency shall have sole
42 responsibility and authority for monitoring the obligor's
43 compliance with all child support orders and for initiating any
44 enforcement procedures that it considers appropriate;

- 1 c. The clerk shall maintain all official records, including records
 2 showing the amount of each payment of child support received
 3 from or for the obligor together with the dates on which each
 4 payment was received and was transmitted to the Department of
 5 Human Resources; and
- 6 d. The Child Support Enforcement Agency shall maintain any
 7 other records needed to monitor the obligor's compliance with
 8 or to enforce child support orders.
- 9 (2) In each non-IV-D case:
- 10 a. Upon receipt of any child support payment, the clerk shall
 11 promptly disburse the payment to the custodial parent or other
 12 obligee as provided in the child support order;
- 13 b. Any proceeding to enforce any child support order shall be
 14 initiated by the obligee personally or through a privately
 15 retained attorney;
- 16 c. The clerk shall have no further responsibility or authority to
 17 monitor the obligor's compliance with any support order or to
 18 initiate any enforcement proceedings;
- 19 d. The clerk shall maintain all official records, including records
 20 showing the amount of each payment of child support received
 21 from or for the obligor together with the dates on which each
 22 payment was received from or for the obligor together with the
 23 dates on which each payment was received and was disbursed
 24 to the custodial parent or other obligee and the address to which
 25 it was sent; and
- 26 e. When any obligee or obligor begins to receive child support
 27 services from a Child Support Enforcement Agency as provided
 28 in G.S. 110-130.1, the Agency shall promptly notify the clerk
 29 and subdivision (1) of this subsection shall then be followed.
- 30 (e) No attorney-client relationship shall be deemed to have been created
 31 between the attorney who represents the Child Support Enforcement Agency and any
 32 person by virtue of the action of the attorney in providing the services requested under
 33 G.S. 110-130.1(c).
- 34 (f) This section becomes effective January 1, 1994, and shall apply only to
 35 cases existing on or commenced after the implementation date in a county selected
 36 under Section 1 of this act.

37 Sec. 3. Chapter 120 of the General Statutes is amended by adding a new
 38 Article to read:

39 **"ARTICLE 22.**

40 **"CHILD SUPPORT OVERSIGHT COMMISSION.**

41 **"§ 120-190. Creation and membership of Child Support Oversight Commission.**

42 (a) The Child Support Oversight Commission is established. The Commission
 43 consists of 19 members as follows:

- 44 (1) Five Senators appointed by the President Pro Tempore of the Senate.

- 1 (2) Five members of the House of Representatives appointed by the
2 Speaker of the House of Representatives.
- 3 (3) Four members appointed by the Director of the Administrative Office
4 of the Courts, one of whom shall be a district court judge and one of
5 whom shall be a clerk of superior court.
- 6 (4) Four members appointed by the Secretary of Human Resources, one of
7 whom shall be a county director of social services and one of whom
8 shall be a director of a designated representative, as defined in G.S.
9 110-129, that is not a county department of social services.
- 10 (5) One member appointed by the North Carolina Association of County
11 Commissioners.

12 (b) Terms on the Commission are for two years and begin on the convening of
13 the General Assembly in each odd-numbered year, except that the terms of the initial
14 members begin on appointment and end on the date of the convening of the 1995
15 General Assembly. Members may complete a term of service on the Commission even
16 if they do not seek reelection or are not reelected to the General Assembly, but
17 resignation or removal from service in the General Assembly constitutes resignation or
18 removal from service on the Commission.

19 **"§ 120-191. Purpose and powers of Commission.**

20 (a) The Child Support Oversight Commission shall examine, on a continuing
21 basis, the child support enforcement system in North Carolina, to make ongoing
22 recommendations to the General Assembly on ways to improve the enforcement of
23 child support.

24 (b) The Commission's oversight duties shall include:

- 25 (1) A continuing review of the efforts in counties as they are selected to
26 implement centralized child support enforcement services in the IV-D
27 agencies.
- 28 (2) A fiscal analysis of the cost-effectiveness of the centralization of child
29 support enforcement services in the IV-D agencies.
- 30 (3) A long-term fiscal analysis of an equitable plan for State and county
31 cost-sharing.
- 32 (4) An exploration of State and local reimbursement agreements that
33 would maximize federal reimbursement.
- 34 (5) Consultation with all State and local agencies and individuals involved
35 in the implementation and operation of the statewide centralization of
36 child support enforcement services in the IV-D agencies.
- 37 (6) An evaluation of whether changes in child support laws are necessary,
38 including an evaluation of whether a recodification of child support
39 laws is necessary.

40 (c) No later than February 1, 1995, and every two years thereafter, the
41 Commission shall file a report with the General Assembly on its findings and
42 recommendations, including any proposed legislation, concerning the restructuring of
43 the State child support system. Proposed legislation, if recommended, may address the
44 following issues:

- 1 (1) Performance criteria;
2 (2) Procedures for auditing and evaluating the parties' performance;
3 (3) Methods for improving the parties' performance through incentives,
4 including the use of any available State or federal funds;
5 (4) Appropriate remedies for any party's failure to meet performance
6 criteria, including the sequence and procedures for applying the
7 remedies;
8 (5) The application of performance criteria to child support enforcement
9 programs administered by the State, and to those administered by a
10 county or its designees; and
11 (6) Any other issue that the Commission considers appropriate.
12 (d) The Commission may make interim reports, with any recommended
13 legislation, to the General Assembly on matters that it may report to a regular session of
14 the General Assembly.

15 **"§ 120-192. Organization of Commission.**

16 (a) The President Pro Tempore of the Senate and the Speaker of the House of
17 Representatives shall each designate a cochair of the Child Support Oversight
18 Commission. The Commission shall meet at least once a quarter and may meet at other
19 times upon the call of the cochairs.

20 (b) A quorum of the Commission is 11 members. No action may be taken except
21 by a majority vote at a meeting at which a quorum is present. While discharging its
22 official duties, the Commission has the powers of a commission under G.S. 120-19 and
23 G.S. 120-19.1 through G.S. 120-19.4.

24 (c) Members of the Commission and its drafting committee shall receive
25 subsistence and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as
26 appropriate. The Legislative Services Commission through the Legislative
27 Administrative Officer shall assign professional staff to assist the Commission in its
28 work. Upon the direction of the Legislative Services Commission, the Supervisors of
29 Clerks of the Senate and of the House of Representatives shall provide clerical
30 assistance to the Commission. The expenses for clerical employees shall be borne by
31 the Commission. All expenses of the Commission shall be paid from the Child Support
32 Fund under the Department of Human Resources."

33 Sec. 4. (a) There is created in the Department of Human Resources a
34 nonreverting special fund to be known as the "Child Support Fund". The Child Support
35 Fund shall consist of federal grants and other funds available to match the costs incurred
36 by the State in operating the Administrative Office of the Courts' Child Support
37 Computer System, in receipting and accounting for payments in all IV-D cases newly
38 opened by or transferred from clerks of superior court to the child support enforcement
39 agencies in the counties in which the restructured child support system is implemented
40 and operated under Section 1 of this act, and any other State costs for which new federal
41 IV-D receipts can be identified and collected.

42 (b) This fund shall be used solely to pay child support implementation and
43 operating expenses of counties as they are selected under Section 1 of this act, the
44 expenses of the Child Support Enforcement Section of the Department of Human

1 Resources related to this act, and the expenses of the Child Support Oversight
2 Commission. Funds shall be transferred from this fund as they are required to pay those
3 expenses.

4 (c) The Department of Human Resources and the Administrative Office of the
5 Courts shall take all steps necessary to separate out and to document all the expenses for
6 which federal receipts may be obtained for the Child Support Fund and to apply for any
7 federal funds which may be available.

8 (d) No new funds are appropriated in the operating budget for the 1993-95
9 biennium to implement this act, but the Secretary of Human Resources, with the
10 approval of the Office of State Budget and Management, shall make use, to the extent
11 possible, of any funds appropriated or otherwise available for the 1993-94 and 1994-95
12 fiscal years to make up any difference between the funds available to it from the Child
13 Support Fund and the actual expenses that are incurred.

14 (e) To account for any funds transferred from the Child Support Fund under
15 subsection (b) of this section, for funds transferred under subsection (d) of this section,
16 and for all expenses paid from any funds so transferred, the operating budgets of the
17 Department of Human Resources shall include a budget purpose entitled "Child Support
18 Reform Implementation".

19 (f) Funds in this account shall be used to offset increased costs to the IV-D
20 agencies that may result from the implementation of this act.

21 Sec. 5. Except as otherwise provided herein, this act is effective upon
22 ratification.