

Legislative Analysis



COLLECTION OF CERTAIN COURT COSTS, PENALTIES, AND FEES

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House Bill 5314 (Substitute H-2)
Sponsor: Rep. Ted Hammon
Committee: Judiciary

First Analysis (5-1-08)

BRIEF SUMMARY: The bill would allow the collection of certain penalties, fees, and costs related to a criminal case or civil infraction action to be recovered in the same manner as a civil judgment.

FISCAL IMPACT: There would be no fiscal impact to state or local government.

THE APPARENT PROBLEM:

Currently, a civil action can be used by a circuit court to collect a money judgment imposed in a felony case. A district court, however, must resort to issuing bench warrants for the arrest of persons who fail to pay similar money judgments in a misdemeanor case. Besides being inefficient, arresting people who are behind in their payments places an additional burden on local law enforcement agencies and takes up space in jails needed to house those arrested for violating more serious crimes. It has been suggested that district courts be afforded the same avenue to collect monetary judgments enjoyed by circuit courts.

THE CONTENT OF THE BILL:

Currently, the Revised Judicature Act specifies that if a person incurred a penalty, fee, or costs for an act or omission that was not also a misdemeanor, the penalty, fee or costs could be recovered in the same manner as civil monetary judgments in the same court.

House Bill 5314 would revise the above provision to exclude all criminal cases and civil infractions and to specify that the penalty could be recovered in a civil action.

Further, the bill would state that unless otherwise specially provided by law, any fine, cost, restitution, reimbursement, assessment, or other fee that had been imposed in a criminal case (this would include both felonies and misdemeanors) or civil infractions as authorized by law or court rule could be recovered in the same manner as a civil judgment for money in the same court.

MCL 600.4805

ARGUMENTS:

For:

When Section 4805 of the Revised Judicature Act was amended several years ago to allow circuit courts to collect unpaid money judgments in the same manner as for civil actions, the exclusion for district courts contained in that section was not similarly amended. Since then, a disparity has existed between the two types of courts. A district court can, under other provisions in the RJA, seize real property for auction to satisfy the unpaid costs, fees, and penalties related to a misdemeanor case. The bill would give a district court the option to instead use means available to collect on civil judgments, such as garnishing the person's wages or intercepting state income tax refunds.

The bill further clarifies what types of costs and fees imposed in a criminal case or civil infraction action can be recovered under Section 4805. Supporters of the legislation hope that enactment will improve collection rates for district courts throughout the state, as well as reduce the burden on law enforcement agencies that now must arrest on bench warrants those who haven't paid and house them in often crowded local jails.

POSITIONS:

The State Court Administrative Office (SCAO) indicated support for the bill. (4-30-09)

A representative of the Michigan Court Managers Association and the 67th District Court testified in support of the bill. (4-30-09)

The Michigan Court Officers and Deputy Sheriffs Association indicated support for the bill. (4-30-08)

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