

# Legislative Analysis



## **BAIL BOND SURCHARGE INDIGENT DEFENSE COUNSEL FUND**

Mitchell Bean, Director  
Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bills 5538 and 5539**  
**Sponsor: Rep. Cushingberry**  
**Committee: Appropriations**

**Complete to 3-11-2010**

### **A SUMMARY OF HOUSE BILLS 5538 and 5539 AS INTRODUCED 10-22-2009**

House bill 5538 would impose an additional \$25 fee on any inmate or defendant who furnishes bond or bail money. The fees that are collected under this section are transmitted to the court that fixed the bond or bail amount. The bill specifies that a person who fails to pay the fee shall not be denied bail solely for that reason. If the inmate or defendant fails to pay the fee at the time the bond or bail money is furnished they are responsible for a state civil infraction and may be ordered to pay a civil fine of \$100. The county prosecutor for the county in which the jail is located is responsible for enforcing the state civil infraction.

Subsection 2 would require the clerk of the court to transmit the total amount of fees received to the county clerk for deposit in a dedicated account to be used for providing legal counsel to indigent criminal defendants in that county. The unexpended balance of the fund at the close of any fiscal year shall be transmitted to the Indigent Defense Counsel Fund.

House bill 5539 would create the Indigent Defense Counsel Fund in the Department of Treasury. Any unexpended balances in the county funds dedicated to indigent defense would be credited to the Indigent Defense Counsel Fund. The provisions of the bill specify that 80 percent of the amount in the fund would be used to reimburse counties for the actual amount of fees paid by counties to attorneys for providing indigent defense. The remaining 20 percent would be expended for the Office of Public Defender.

House bills 5538 and 5539 are tie-barred.

### **FISCAL IMPACT:**

A November 2007 report from the Bureau of Justice Statistics reviewing pre-trial release patterns for felony defendants in the 75 largest counties in the U.S. notes that 30 percent of defendants were released on bond. Using the 30 percent figure coupled with 2008 Supreme Court Annual Report figures of 82,451 non-traffic felony cases and 48,443 traffic felony and operating while intoxicated (OWI) misdemeanor cases filed with the

district court, House bill 5538 may generate an additional \$982,000. Any civil fines collected for a violation of this section would go to the county treasurer to fund libraries.

House bill 5539 would have an indeterminate fiscal impact on state government. Under the provisions of the bill, the Department of Treasury would experience certain administrative costs associated with creating and administering the fund. The provisions of the bill specify that 80 percent of the amount in the fund shall be used to reimburse counties for the actual amount of fees paid by counties to attorneys for providing legal counsel to indigent criminals. The remaining 20 percent in the fund would be distributed to the Office of the Appellate Defender.

Fiscal Analyst: Ben Gielczyk

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.