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BILL ANALYSIS

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House Bill 5648 (as reported without amendment)  
Sponsor: Representative Jim Howell  
House Committee: Judiciary  
Senate Committee: Judiciary

Date Completed: 4-26-04

### **RATIONALE**

Public Act 71 of 2003, which took effect on October 1, 2003, amended the juvenile code to provide that, if a juvenile is within the jurisdiction of the family division of circuit court (family court) for a violation of a State or Federal law or a municipal ordinance, the court must order the juvenile to pay a "minimum state cost". Public Act 70 of 2003, which also took effect on October 1, 2003, amended the Code of Criminal Procedure to require criminal offenders to pay the same minimum State cost that Public Act 71 enacted for juvenile offenders. Public Act 70, however, requires the court to order the cost to be paid only if the court orders a person convicted of an offense to pay any combination of a fine, costs, or applicable assessments. It has been suggested that the minimum State cost should be imposed on a juvenile offender only if the court also orders the juvenile to pay other costs, fines, or assessments.

In addition, the Code of Criminal Procedure allows a probationer who is required to pay certain costs, and who is not in willful default of the payment, to petition the court for a remission (cancellation) of any unpaid portion of the costs. If the court determines that payment will impose a manifest hardship on the probationer or his or her family, the court may remit all or part of the amount due or modify the method of payment. Public Act 101 of 2003 amended that provision to include in it the minimum State cost imposed on a criminal offender under Public Act 70. Some people believe that juvenile offenders subject to the minimum State cost also should have the opportunity to seek remission if payment of the cost would pose a hardship to the juvenile or his or her family.

### **CONTENT**

**The bill would amend the juvenile code to qualify the conditions under which the family court must order certain juvenile offenders to pay a minimum State costs.**

Under provisions of the code enacted by Public Act 71 of 2003, if a juvenile is within the family court's jurisdiction for a violation of a State or Federal law or a municipal ordinance, the court must order the juvenile to pay at least the following amount, as applicable:

- \$60, if the juvenile is within the family court's jurisdiction for a felony.
- \$45, if the juvenile is within the court's jurisdiction for a "serious misdemeanor" (as defined in the Crime Victim's Rights Act) or a "specified misdemeanor" (as defined in the crime victim's rights services Act).
- \$40, if the juvenile is within the court's jurisdiction for any other misdemeanor or an ordinance violation.

Under the bill, the family court would have to order a juvenile to pay the minimum State cost only if the juvenile were ordered to pay any combination of fines, costs, restitution, assessments, or payments arising out of the same juvenile proceeding.

Also, the bill specifies that a juvenile who had been ordered to pay the minimum State cost as a condition of probation or supervision and who was not in willful default of the payment could petition the court at any time for a remission of the payment of any unpaid portion of the minimum State cost. If the court determined that payment of the amount due

would impose a manifest hardship on the juvenile or his or her family, the court could remit all or part of the amount of the minimum State cost due or modify the method of payment.

MCL 712A.18 & 712A.18m

## **BACKGROUND**

Public Acts 70 and 71 were part of a judiciary fee package that increased revenue for various judiciary- and criminal justice-related entities, by increasing civil filing and motion fees and consolidating the assessments of State-level costs imposed on civil infractions and criminal offenses. The package also revised the processes for distributing revenue generated by filing fees and assessments/costs, by moving the earmarking of revenue from the local level to the State level.

The State minimum costs imposed under Public Acts 70 and 71 are deposited into a new Justice System Fund (created by Public Act 97 of 2003), which also receives revenue from other assessments established in the judiciary fee package. After a distribution to the Secondary Road Patrol and Training Fund of \$10 for each traffic-related civil infraction for which an assessment was collected, the balance of the Justice System Fund is allocated in specific percentages to a number of other funds, including the Highway Safety Fund, the Jail Reimbursement Program Fund, the Michigan Justice Training Fund, the State Court Fund, and the Court Equity Fund.

## **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**

While Public Act 70 amended the Code of Criminal Procedure to require a court to impose a minimum State cost on criminal offenders only if other costs, fines, or assessments also are ordered, that qualifier on the imposition of the minimum State cost was left out of Public Act 71, which made similar amendments to the juvenile code. Apparently, this omission was inadvertent. Juveniles should not be obligated to pay the minimum State cost in situations that do not

apply to criminal offenders. Under the bill, the minimum State cost would be imposed on juvenile offenders only under the same conditions that it is imposed on adult, criminal offenders.

In addition, the Code of Criminal Procedure provides adult offenders with the possibility of relief from the burden of the minimum State cost if paying it would pose a hardship. The bill would give juvenile offenders the same opportunity to seek relief.

The State Court Administrative Office recommended the changes proposed by the bill.

Legislative Analyst: Patrick Affholter

## **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on State and local government.

To the extent that the bill would allow a court to order payment of the minimum State cost only if also ordering payment of other monetary sanctions, and to waive payment in cases of hardship, the bill would decrease potential revenue to the Justice System Fund. Revenue estimates from the State Court Administrative Office, however, were based on an assumption including the proposed amendments; therefore, the bill would not create a shortfall in expected revenue to any of the Justice System Fund recipients.

Fiscal Analyst: Bethany Wicksall

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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.