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BILL ANALYSIS

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House Bill 5648 (as passed by the House)
Sponsor: Representative Jim Howell
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 4-20-04

CONTENT

The bill would amend the juvenile code to qualify the conditions under which the family division of circuit court (family court) must order certain juvenile offenders to pay certain minimum State costs.

Under provisions enacted by Public Act 71 of 2003, which took effect on October 1, 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 costs of 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 those minimum State costs 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.

In addition, the juvenile code requires the Office of the State Court Administrator, under the supervision and direction of the Supreme Court and in consultation with the Family Independence Agency and the Michigan Probate Judges Association, to create guidelines and a model schedule that the family court may use in determining the ability of a juvenile, parent, guardian, or custodian to pay for care and any costs of service ordered for a juvenile's care. The guidelines and model must take into account both the income and resources of the juvenile, parent, guardian, or custodian. The bill would remove references to a model and would delete the requirement that the State Court Administrator consult with the FIA and the probate judges in developing the guidelines.

MCL 712A.18 & 712A.18m

BACKGROUND

Public Act 70 of 2003 (House Bill 4732), which also took effect on October 1, 2003, amended the Code of Criminal Procedure to enact the same minimum State costs for criminal offenders that Public Act 71 enacted for juvenile offenders. Public Act 70, however, requires the court to order those costs 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.

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 on juvenile offenders under Public Act 70 and 71 are deposited into a new Justice System Fund (created by Public Act 97 of 2003), which also receives revenue 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.

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 minimum State costs 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.