



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 421 (Substitute S-2 as passed by the Senate)
 Sponsor: Senator William Van Regenmorter Committee:
 Judiciary

Date Completed: 4-24-95

RATIONALE

The Revised Judicature Act (RJA) requires that a witness receive a payment of \$12 for each day and \$6 for each half day that he or she attends an action or proceeding. As an alternative, the witness may be paid for his or her loss of working time, up to \$15 per day. The RJA also requires that witnesses be reimbursed 10 cents per mile for travel. When a police officer or other employee of a law enforcement agency appears in a duty-related capacity as a witness in a civil suit, the employee is paid his or her wages, and any fee received from the court is turned over to his or her employer. Although the fees may partially offset the agency's cost in paying the employee's wages, they typically amount to less than the total cost of the wages. Some people feel that a party to a civil suit who compels the testimony of a law enforcement officer or other agency employee should be responsible for reimbursing the employing agency for that employee's wages.

CONTENT

The bill would amend the Revised Judicature Act to require that a party to a civil proceeding, who compelled the appearance of a law enforcement agency employee at that proceeding under subpoena or court order, pay to the witness's employer the actual wages earned by the employee for the period of attendance. The bill would take effect on October 1, 1995, and apply to all civil causes of action filed on or after that date.

The requirement would apply if each of the following conditions were met:

- The employee's attendance related to an event he or she witnessed or took part in while performing his or her duties.

- The employee's attendance occurred during a period of time in which he or she would otherwise be performing his or her duties.
- Neither the employee nor his or her employer was a party to the civil proceeding.

Witnesses whose employers were paid under the bill could not receive the standard witness fees and travel expenses authorized by the RJA.

"Employee" and "law enforcement employee" would mean any of the following:

- A sheriff or sheriff's deputy.
- A village or township marshal.
- An officer of the Michigan State Police.
- An officer trained and certified pursuant to the Michigan Law Enforcement Officers Training Council Act, and employed by the State or by a city, village, township, or county.
- A corrections officer, as that term is defined in the Michigan Penal Code (i.e., any prison or jail guard or other prison or jail personnel; any personnel of a boot camp or other minimum security correctional facility; and any parole or probation officer).
- An individual employed by the State or by a city, village, township, or county and acting under the direction of a sheriff or sheriff's deputy, village or township marshal, Michigan State Police officer, State or local officer trained and certified under the Michigan Law Enforcement Officers Training Council Act, or corrections officer.

MCL 600.2552

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

When a police officer or other law enforcement agency employee is required to testify in a civil proceeding in a duty-related capacity, the employing agency pays the witness's wages even though he or she may not be performing his or her usual work-related duties. While requiring the employee to pass along to the agency any court fee received for his or her testimony can mitigate the agency's labor costs, fees paid to witnesses do not approach the agency's total cost. If a party to a civil suit requires the testimony of an on-duty employee in a duty-related capacity, that party should be responsible for reimbursing the employing agency for the wages paid to the witness during that time.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. Should a party be required to pay a law enforcement agency employee's employer the actual wages earned for the period of attendance at a civil proceeding in which the employee's presence was requested by that party, the cost to that party likely would range from \$150 per full day of attendance down to a lesser amount, depending on the employee's rank and the pay rate of the law enforcement agency involved. The payment would be deposited in the general fund of the governmental unit that employed the witness. The number of law enforcement agency employees who testify in civil proceedings in the State is not known; therefore, the amount of funds a given governmental unit could receive in a given year under this bill cannot be determined at this time.

Fiscal Analyst: B. Baker

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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.