



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 593 (Substitute S-1) and 594 (Substitute S-2)
Sponsor: Senator Jon Cisky
Committee: Families, Mental Health and Human Services

Date Completed: 12-21-95

SUMMARY OF SENATE BILLS 593 (Substitute S-1) and 594 (Substitute S-2) as passed by the Senate:

Senate Bill 593 (S-1) would amend the Support and Visitation and Enforcement Act to impose liability for court costs on someone subject to a show cause hearing for failure to obey a support order or for violation of a visitation order. **Senate Bill 594 (S-2)** would amend the Revised Judicature Act (RJA) to require that one-half of the costs collected under Senate Bill 593 be deposited in a county's Friend of the Court fund and one-half be remitted to a law enforcement agency.

The bills are tie-barred to each other, and would take effect June 1, 1996.

Senate Bill 593 (S-1)

Under the Support and Visitation Enforcement Act, if a person has been ordered to pay support and fails or refuses to obey, and if an order of income withholding is inapplicable or unsuccessful, a recipient of support or the Office of the Friend of the Court (FOC) may commence a civil contempt proceeding by filing in the circuit court a petition for an order to show cause why the payer should not be held in contempt. If the payer fails to appear, the court may issue a bench warrant requiring the payer to be brought before the court. If the payer is arrested and cannot be brought before the court within 24 hours, he or she may "recognize for his or her appearance" by leaving with the sheriff a sum of money stated in the bench warrant, up to the amount of arrearage under the support order. If the payer fails to appear as required, the court must transmit the deposit to the FOC for payment to one or more support recipients.

Under the bill, if a court issued a bench warrant under these provisions, except for good cause shown on the record, the court would have to order the payer to pay the costs related to the hearing, issuance of the warrant, arrest, and further hearings. In addition, the amount that a payer left with the sheriff for personal recognizance could include costs that could be ordered if the payer failed to appear. The costs ordered pursuant to a bench warrant and for failure to appear would have to be transmitted to the county treasurer for distribution as provided in the RJA.

The Act also provides that, if the Office of the FOC determines that action should be taken to resolve a visitation dispute, the FOC must commence a civil contempt proceeding by filing with the circuit court a petition for an order to show cause why either parent who has violated a visitation order should not be held in contempt. The bill provides that, if a party failed to appear in response to a show cause order, the court could issue a bench warrant requiring that the party be brought

before the court without unnecessary delay to show cause why he or she should not be held in contempt. Except for good cause shown on the record, the court also would have to order the party to pay the costs of the hearing, issuance of the warrant, arrest, and further hearings. Those costs would have to be transmitted to the county treasurer for distribution as provided in the RJA.

Under the Act, if the court finds that either parent has violated a visitation order, the court must find the parent in contempt and may do one or more of the following: require additional terms and conditions consistent with the court's visitation order; modify the order to meet the best interests of the child; order that make-up visitation time be provided for the noncustodial parent; order the parent to pay a fine of up to \$100; commit the parent to the county jail; or commit the parent to the county jail with the privilege of leaving to go to and return from employment. The bill would require the court to order one or more of these sanctions, or state on the record the reason it was not doing so. The bill also would replace references to "visitation" with references to "parenting time".

Senate Bill 594 (S-2)

In any judicial circuit, the bill would require that one-half of the costs collected under Senate Bill 593 be deposited in the county's Friend of the Court fund. In a judicial circuit in which circuit court employees are not employees of the State Judicial Council (that is, other than in the Third Circuit Court in Wayne County), money transmitted for a show cause hearing for failure to pay support would have to supplement and not supplant other money appropriated by the county for FOC functions as measured by amounts the county appropriated for those functions in previous and current fiscal years.

In any circuit, the county treasurer would have to remit one-half of the costs actually paid by a payer as ordered under Senate Bill 593 to the law enforcement agency that executed the bench warrant issued for the payer's arrest.

MCL 552.631 et al. (S.B. 593)
600.2530 (S.B. 594)

Legislative Analyst: S. Margules

FISCAL IMPACT

It is indeterminate how the bills would affect the counties, because court costs may differ with each bench warrant issued. If a court were able to collect related costs for each bench warrant issued, there could be some additional revenues for the Friend of the Court offices and law enforcement agencies. This amount is not expected to be significant.

Fiscal Analyst: M. Bain

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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.