



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 1214 and 1215 (as enrolled)
Sponsor: Senator George A. McManus, Jr. (Senate Bill 1214)
 Senator William Van Regenmorter (Senate Bill 1215)
Senate Committee: Judiciary
House Committee: Judiciary and Civil Rights

Date Completed: 1-3-97

CONTENT

Senate Bills 1214 and 1215 would amend the Department of Corrections (DOC) law and the Revised Judicature Act, respectively, to provide for the payment of a prisoner's civil filing fees and costs from his or her institutional account. The bills are tie-barred to each other and would take effect on June 1, 1997.

The bills also are tie-barred to House Bill 4990, which would amend the DOC law to provide that, if a prisoner were ordered by a court to make monthly payments for the purpose of paying the balance of filing fees or costs under Section 2963 of the RJA (which Senate Bill 1215 would add), the DOC would have to remove those amounts from the prisoner's institutional account and, when an amount equal to the balance of the filing fees or costs due was removed, remit that amount as directed in the court order.

Senate Bill 1214

The bill would require an order of parole to contain a condition that the parolee pay the following amounts owed by the prisoner, if applicable:

- The balance of filing fees and costs ordered to be paid under Section 2963 of the Revised Judicature Act.
- The balance of any filing fee ordered to be paid by a Federal court and any unpaid order of costs assessed against the prisoner.

Senate Bill 1215

The bill provides that, if a prisoner under the jurisdiction of the DOC submitted for filing a civil action as plaintiff in a court of this State or submitted for filing an appeal in a civil action in a court of this State, and stated that he or she was indigent and therefore was unable to pay the filing fee and costs required by law, the prisoner would have to submit to the court a certified copy of his or her institutional account, showing the current balance and a 12-month history of deposits and withdrawals. The court then would have to order the prisoner to pay fees and costs as provided in the bill, and would have to suspend the filing of the action or appeal until the court received the filing fee or initial partial filing fee.

If the court ordered a prisoner to pay a filing fee or partial filing fee, the court would have to return to the prisoner all documents submitted by him or her that related to that action or appeal along with two certified copies of the court order. An additional certified copy of the order would have to be sent to the DOC facility where the prisoner was housed. The prisoner then would have 21 days to resubmit to the court all documents relating to the action or appeal, accompanied by the required filing fee or partial filing fee and one certified copy of the court order. If the fee were not received within 21 days after the date on which it was ordered, the court could not file that action or appeal and would have to return all related documents to the plaintiff.

If, upon the commencement of the civil action or the filing of the appeal, the balance in the prisoner's institutional account equaled or exceeded the full amount of the filing fee required by law, the court would have to order the prisoner to pay that amount. If the balance were less than the full amount of the filing fee, the court would have to require the prisoner to pay an initial partial filing fee equal to 50% of the greater of the following: 1) the average monthly deposits to the prisoner's institutional account for the 12 months preceding the date of filing; or 2) the average monthly balance in the account for that 12-month period. In determining the balance in a prisoner's institutional account for these purposes, the court would have to disregard amounts in the account that were required by law or by another court order to be paid for any other purposes.

In addition to ordering an initial partial filing fee, the court would have to order the prisoner to make monthly payments equal to 50% of the deposits made to the account, until the full amount of the filing fee was paid. The collection of payments from the account, and their remittal by the DOC, would have to be conducted as provided in Section 68 of the DOC law (which House Bill 4990 would amend). If costs were assessed against a prisoner, and if the balance of his or her institutional account were not sufficient to pay the full amount of costs assessed, the court would have to order the prisoner to make payments in the same manner as required in the bill for the payment of filing fees, and the full amount of the costs would have to be collected and paid in the manner provided in this provision and in Section 68 of the DOC law.

The total amount collected from a prisoner under these provisions could not exceed the full amount of the filing fee and costs required by law.

For purposes of Senate Bill 1215, the fact of a prisoner's incarceration could not be the sole basis for a determination of indigency. The bill specifies, however, that it would not prohibit a prisoner from commencing a civil action or filing an appeal in a civil action if the prisoner had no assets and no means by which to pay the initial partial filing fee. If the court, pursuant to court rule, waived or suspended the payment of fees and costs because the prisoner had no assets and no means to pay the initial partial filing fee, the court would have to order the fees and costs to be paid by the prisoner in the manner provided in the bill when the reason for the waiver or suspension no longer existed.

MCL 791.236 (S.B. 1214)
Proposed MCL 600.2963 (S.B. 1215)

Legislative Analyst: S. Margules

FISCAL IMPACT

The fiscal impact on State government is indeterminate. The provisions outlined in the bills could increase filing fee revenues depending on the number of prisoners who commenced a civil action and the assets of the prisoners. The amounts are not expected to be significant as the charging of filing fees also could deter prisoners from filing these actions.

In 1995, prisoners filed a total of 1,854 cases in State and Federal courts. However, given that prisoners also are required to pay supervision fees, crime victims rights fees, and other assessments, on average, prisoner accounts do not have significant account balances to cover additional fees for court filings. The current cost for filing a civil action is \$90. To the extent that charging prisoners the filing fees would reduce the number of cases filed, savings also could accrue to the State. Finally, the new administrative responsibilities required by the Department of Corrections for managing payment from prisoner accounts could increase departmental operating expenditures, the exact amount of which is presently not known.

Fiscal Analyst: M. Hansen
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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.