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House Bill 4732 (as reported without amendment)
House Bill 4733 (Substitute S-1 as reported)
House Bill 4735 (as reported without amendment)
House Bill 4736 (Substitute H-2 as reported without amendment)
House Bills 4741, 4743, 4745, and 4746 (as reported without amendment)
House Bill 4748 (Substitute S-2 as reported)
House Bill 4749 (as reported without amendment)
House Bill 4750 (Substitute H-1 as reported without amendment)

Sponsors: Representative Jim Howell (H.B. 4732)
Representative Paul Condino (H.B. 4733)
Representative Frank Accavitti, Jr. (H.B. 4735)
Representative Andrew Meisner (H.B. 4736)
Representative Tupac Hunter (H.B. 4741)
Representative Lorence Wenke (H.B. 4743)
Representative Stephen F. Adamini (H.B. 4745)
Representative Ken Daniels (H.B. 4746)
Representative Alexander C. Lipsey (H.B. 4748)
Representative Marc Shulman (H.B. 4749)
Representative Joanne Voorhees (H.B. 4750)

House Committee: Judiciary
Senate Committee: Appropriations

CONTENT

The following is a description of the House bills as well as the equivalent Senate bills, indicating differences between them.

House Bill 4732 (S.B. 436 (S-1)): The bill would amend the Code of Criminal Procedure to establish "minimum State costs" of \$60 for a felony conviction, \$45 for a serious misdemeanor or specified misdemeanor conviction, and \$40 for any other misdemeanor conviction, beginning October 1, 2003. The court clerk would collect the payment and deposit it into the new Justice System Fund (proposed by Senate Bill 439). The bill also would make payment of the minimum State costs a condition of probation, and would require the minimum State costs to be collected out of a cash bond or bail deposit posted by the defendant. In addition, the bill provides that if a defendant ordered to pay a minimum State cost were subject to fines, costs, and other payments, money collected from that defendant would have to be allocated according to Chapter XV, Section 22 of the Code. (That section, MCL 775.22, prioritizes the application of money collected from an offender for the payment of fines, costs, fees, and assessments (other than the portion dedicated to crime victim payments). Senate Bill 449 would assign first priority to the payment of minimum State costs.) Senate Bill 436 (S-1) provides that penal fines under the Code could not be waived unless court costs were waived as well. Under House Bill 4732, this would apply to all felonies, misdemeanors, and ordinance violations. The bill also specifies that penal fines could not be waived unless court costs, other than the new minimum State cost, were waived. (Proposed MCL 769.1j)

House Bill 4733 (S-1) (S.B. 437 (S-1)): The bill would amend the juvenile code as of October 1, 2003, to establish minimum State costs ordered in a juvenile determination of

responsibility of \$60 for a felony, \$45 for a serious or specified misdemeanor, and \$40 for any other misdemeanor or ordinance violation. The court clerk would collect the payment and deposit it into the new Justice System Fund. The bill also would make payment of the minimum State costs a condition of probation or supervision and would require that the collection of payments be allocated according to Section 29 of the code (which House Bill 4741 would amend). Finally, the bill provides that penal fines could not be waived unless court costs were waived as well. (MCL 712A.18 et al.)

House Bill 4735 (S.B. 440): The bill would amend the Revised Judicature Act (RJA) to establish the "Drug Treatment Court Fund" in the State Treasury, administered by the State Court Administrative Office. The bill specifies that a balance at the end of the fiscal year would remain in the Fund rather than lapse to the General Fund. The Fund would be for the administration of, and awarding of grants for, drug court treatment programs around the State. The bill also specifies minimum eligibility requirements for drug court funding. The House proposal does not differ from that of the Senate. (Proposed MCL 600.185)

House Bill 4736 (H-2) (S.B. 433 (S-1)): The bill would amend the Michigan Vehicle Code to eliminate multiple assessments (which presently total \$25) on civil infractions under the Code, and replace them with a single justice system assessment of \$40 to be transmitted to the State Treasury and deposited into the Justice System Fund. Unlike Senate Bill 433 (S-1), House Bill 4736 (H-2) also would increase the civil fine for "prohibited parking" violations from between \$50 and \$100 to between \$100 and \$250, to recognize changes made by House Bill 4333, which has passed both the House and the Senate. (MCL 257.629e & 257.907)

House Bill 4741 (S.B. 443): The bill would amend the juvenile code by including the new minimum State costs at the head of the offender payment priority schedule for the portion of payments that is not automatically sent to crime victims. The House proposal contains only technical changes from that of the Senate. (MCL 712A.29)

House Bill 4743 (S.B. 450): The bill would amend the Corrections Code by adding payment of the minimum State costs as a condition of parole. The House proposal contains only technical changes from that of the Senate. (MCL 791.236)

House Bill 4745 (S.B. 445): The bill would amend the DNA Identification Profiling System Act to require that after October 1, 2003, the court clerks send the State portion of the DNA assessment to the Justice System Fund with all other assessments, rather than earmarking the assessment. (Under Senate Bill 439 (S-1), the State Treasury then would distribute the money accordingly.) The House proposal does not differ from that of the Senate. (MCL 28.176)

House Bill 4746 (S.B. 446): The bill would amend the juvenile code to require that after October 1, 2003, the court clerks send the State portion of the juvenile DNA assessment to the Justice System Fund with all other assessments, rather than earmarking the assessment. (Under Senate Bill 439 (S-1), the State Treasury then would distribute the money accordingly.) The House proposal does not differ from that of the Senate. (MCL 712A.18k)

House Bill 4748 (S-2) (S.B. 438 (S-1)): The bill would amend the RJA by increasing filing fees and revising the collection and distribution of filing fees as of October 1, 2003. Table 1 shows details of the fee changes. Rather than having court clerks collect and earmark fees for different funds, the bill would send the entire State portion of the fees (other than Supreme Court and Court of Appeals (COA) filing fees) to a new "Civil Filing Fee Fund", which the bill would create in the State Treasury. The State Treasurer would disperse it according to the following formula:

- State Court Fund - 48.5%
- Court Equity Fund - 8.2%

- Judicial Technology Improvement Fund - 11.1%
- Community Dispute Resolution Fund - 5.2%
- Judges Retirement System - 24.0%
- Legislative Retirement System - 1.5%
- State General Fund - 1.5%

Table 1: House Bill 4748 (S-2) Proposed Filing Fee Changes		
Fee Type	Current Fee	Proposed Fee
Supreme Court: Filing Fee	\$250	\$375
Court of Appeals: Filing Fee	\$250	\$375
Court of Appeals: Motion Fee	\$75	\$100
Court of Appeals: Expedited /Immediate Consideration Fee	\$150	\$200
Probate Court: Civil Filing Fee	\$100	\$150
Probate Court: Guardianship Filing Fee	\$50	\$100
Probate Court: Motion Fee	\$15	\$20
Circuit Court Family Division: Filing Fee	\$50	\$150
Circuit Court: Filing Fee	\$100	\$150
Circuit Court: Appeal from lower court	\$100	\$150
District Court: Damages \$10,000+	\$100	\$150
District Court: Damages \$1,750-\$10,000	\$52	\$60
District Court: Damages \$600-\$1,750	\$32	\$40
District Court: Damages <\$600	\$17	\$20
District Court: Controversy \$1,750-\$10,000	\$32	\$60
District Court: Controversy \$600-\$1,750	\$32	\$40
District Court: Controversy <\$600	\$17	\$20

In Senate Bill 438 (S-1) after October 1, 2005, the filing fees would revert to their current levels. The formula then would change to distribute the funds based on their current proportion. The House proposal includes a sunset only on the COA motion and expedited/immediate consideration motion fees. House Bill 4748 (S-2) also would put the Supreme Court fees (currently in Michigan Court Rule 7.319) into statute. In addition, the House proposal would increase motion fees and fees for expedited and immediate consideration motions in the Court of Appeals. Finally, House Bill 4748 (S-2) would increase the monthly child support fee from \$1.25 to \$1.50. Additional revenue would provide additional funding for child support enforcement by the Attorney General's office. (MCL 600.321 et al.)

House Bill 4749 (S.B. 441): The bill would amend the RJA to establish the "Judicial Technology Improvement Fund" in the State Treasury, administered by the State Court Administrative Office. The bill specifies that a balance at the end of the fiscal year would remain in the Fund rather than lapse to the General Fund. The money would be used for the development and support of a statewide judicial information system with collaboration of the Supreme Court, the State Court Administrative Office, the Departments of Corrections, State Police, Information Technology, and State, and the Prosecuting Attorneys Association. The Fund also would support technology improvements to enhance public service and access to local trial courts. The House proposal does not differ from that of the Senate. (Proposed MCL 600.175)

House Bill 4750 (H-1) (S.B. 451): The bill would amend the Community Dispute Resolution Act to revise the funding formula. Currently, GF/GP funding supports each center with a threshold funding level, as well as provides additional funding to some centers based on performance measures. Filing fee revenue is dispersed to centers based on the pro rata share

of available grant funds generated by court filing fees imposed in counties served by the centers. Senate Bill 281 removed the balance of GF/GP funding from the community dispute resolution line and replaced it with revenue from increased filing fees. House Bill 4750 (H-1) would allow the State Court Administrative Office to use 35% of the filing fee revenue to establish threshold funding levels and award centers based on performance measures. The other 65% of filing fee revenue still would be used on the pro rata basis. The bill would make the match requirement "at least 35%" rather than 35% as in Senate Bill 451. It also would make other technical changes to clarify the formula and revenue source. (MCL 691.1560)

FISCAL IMPACT

Filing Fee Increases (House Bill 4748 (S-2))

According to the State Court Administrative Office (SCAO), the current filing fees in the circuit, probate, and district courts generate approximately \$35.3 million in revenue. Of this, \$7.7 million stays in the local funding unit, while \$27.6 million is sent to the State. Under the proposal, filing fee revenue would increase by over \$13 million. Of that increase, approximately \$3 million would go to local units for a total of almost \$11 million, and the other \$10 million would be sent to the State for a total of over \$48 million. Table 2 presents a breakdown of the State portion of filing fee revenue. Of the total anticipated increase in State revenue, over \$5.6 million was used to reduce the GF/GP appropriation in the Judiciary budget, \$855,000 was added to Judges' Retirement to make up for a reduction in the State minimum costs assessment proposal, and the other \$3.3 million represents gross increases, of which \$2.6 was appropriated to support the Judicial Technology Improvement Fund.

Table 2: State Distribution of Trial Court Filing Fee Revenue				
Recipient	Current	Proposed	% of Formula	Increase
State Court Fund	\$17,725,000	\$18,163,250	48.5%	\$438,250
Judges' Retirement System	\$7,578,750	\$8,988,000	24.0%	\$1,409,250
Community Dispute Resolution Fund	\$1,210,000	\$1,947,400	5.2%	\$737,400
State General Fund	\$551,250	\$561,750	1.5%	\$10,500
Legislative Retirement System	\$525,000	\$561,750	1.5%	\$36,750
Judicial Technology Improvement Fund	\$0	\$4,156,950	11.1%	\$4,156,950
Court Equity Fund	\$0	\$3,070,900	8.2%	\$3,070,900
TOTAL	\$27,590,000	\$37,450,000	100.0%	\$9,860,000

In addition to raising trial court filing fees, the proposal would increase fees in the Supreme Court and the Court of Appeals. According to the SCAO, the additional filing fees would generate approximately \$118,750 for the Supreme Court and \$525,000 for the COA. Because filings have been down over the past few years, filing fee revenue in the COA line has decreased. Although the FY 2002-03 budget is based on the receipt of \$1.57 million, anticipated revenue is only \$1,221,000, therefore creating a \$350,000 shortfall in the COA budget. The increased revenue from the COA filing fee would correct the shortfall as well as support an additional \$175,000 for the COA operations line.

According to the SCAO, the increase in child support fees would generate approximately \$725,000 in additional revenue for the Attorney General's office for child support enforcement.

Minimum State Costs and the Justice System Assessment

Other than House Bill 4748 (S-2), the bills would eliminate the collection of many distinct

assessments and court costs, and create a single increased assessment on civil traffic infractions, and specific levels of court costs for other civil infractions, misdemeanors, and felonies. [Table 3](#) presents more detail. Trial courts would send the entire amount to the State Treasury, which then would distribute the revenue according to a formula in Senate Bill 439 (S-1) to each of the previous recipients so that each, at a minimum, would be held harmless in the first year and likely would receive increased revenue in following years.

<u>Table 3: Proposed Increases to State Costs and Assessments</u>			
Offense	Current	Proposed	Projected Revenue Increase (By Year 3)
Civil Infraction: Non-traffic	\$9 Costs	\$10 Costs	\$20,000
Civil Infraction: Traffic	\$9 Costs + \$25 Assessment	\$40 Assessment	\$8,400,000
Misdemeanor: Non-serious	Avg. Of \$11.59/case in Costs but each varies	\$40 Costs	\$10,653,750
Misdemeanor: Serious or Specified		\$45 Costs	\$4,176,250
Felony		\$60 Costs	\$1,065,000
TOTAL			\$24,315,000

The SCAO estimates that the proposal potentially would increase overall annual revenue by approximately \$14.4 million in the first year and as much as \$24.3 million by the third year. The difference in increased revenue between years 1, 2, and 3 is caused by the lag between when the assessments or costs would be ordered and when they actually would be collected. During the first year of the proposal, of the increased State revenue, \$6.3 million would fund new troopers in the Michigan State Police Highway Safety Fund; \$5.85 million would replace GF/GP funding in the Court Equity Fund; \$1.2 million would be used for additional drug court funding; \$1.2 million would be split between the Department of Treasury and the SCAO for collection costs, fund administration, and auditing; and \$400,000 would increase support for the Forensic Lab and DNA collection.

Local units of government also could benefit under the proposal. Currently, when a court orders payment of court costs, the first \$9 automatically goes to the State and the balance, up to a maximum allowed under statute depending on the type of offense, is kept by the local court. Under the proposal, the minimum State costs would be collected as a separate category of payment, and the local court would be able to keep the first \$9 it would have previously sent to the State from the court costs category. There are no data to indicate whether the courts would continue to order the same levels of courts costs or whether they would decrease costs accordingly by the \$9. According to the SCAO, if the courts continued to order the same level of court costs, local units of government would have the potential for increasing revenue by up to \$9.1 million in the first year and as much as \$17.1 million by the third year of implementation.

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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.