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BILL ANALYSIS

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Senate Bill 208 (as enrolled)
Sponsor: Senator Laura M. Toy
Senate Committee: Judiciary
House Committee: Judiciary

PUBLIC ACT 88 of 2006

Date Completed: 4-27-06

RATIONALE

The Prisoner Reimbursement to the County Act allows a county to seek reimbursement from a prisoner for expenses the county incurred in relation to a charge for which the person was sentenced to a county jail. At the time of the Act's passage in 1984, it was pointed out that the cost of maintaining jails is a major part of county budgets, and suggested that, in cases in which a prisoner was capable of bearing the cost of his or her imprisonment, the county should be able to seek reimbursement for that expense. Similarly, the cost of operating a municipal jail or lockup can be a significant expense for a city, village, or township, and some people believe that municipalities, like counties, should be able to seek reimbursement of those expenses from prisoners. Also, some counties charge municipalities for the costs of incarcerating inmates in the county jail. It was suggested that municipalities be authorized to seek reimbursement from prisoners for those costs, as well.

CONTENT

The bill created the "Inmate Reimbursement to Municipalities Act" to do all of the following:

-- Authorize a municipality (a city, village, or township located in a county with a population of at least 500,000) to seek reimbursement from a convicted inmate who is or was in the municipal jail or in a county jail, for expenses the municipality incurred in relation to the person's incarceration.

- Require a municipality seeking reimbursement to develop and use a form to determine an inmate's financial status.**
- Require a municipality's chief of police or clerk, at the request of the municipality's legislative body, to furnish information to facilitate the legislative body's investigation of an inmate's financial status.**
- Require an inmate's cooperation with a municipality that is seeking reimbursement.**
- Allow a municipality to file a civil action to seek reimbursement, but prohibit it from enforcing any judgment by execution against the defendant's homestead.**

The bill took effect on April 13, 2006

Reimbursement

A city, village, or township in a county with a population of 500,000 or more (Kent, Macomb, Wayne, and Oakland Counties) may seek the following reimbursements from any person who is or was a convicted inmate in the municipal jail or in a county jail for expenses the municipality incurred in relation to the incarceration of that person:

- Up to \$60 per day for the expenses of maintaining the inmate or the actual per diem cost of maintaining the inmate, whichever is less, for the entire period of time the person was confined in the municipal jail, including any period of pretrial detention.
- The per-day cost charged to the municipality by a county for housing the

inmate in that county's jail, but not more than \$60 per day, for the entire period during which the inmate was housed in the county jail.

- The cost of providing medical treatment, prescription drugs, dental care, and other medical examinations or procedures.
- The cost of investigating the person's financial status.
- Any other expenses the municipality incurs to collect payments under the Act.

Reimbursement under the Act may be ordered as a condition of probation entered pursuant to the Code of Criminal Procedure.

Reimbursements secured under the Act must be credited to the general fund of the municipality to be available for general fund purposes. The municipal treasurer may determine the amount due the municipality under the Act and render sworn statements of the amount. The sworn statements must be considered prima facie evidence of the amount due.

The sentencing judge and the sheriff of any county in which an inmate's property is located must furnish to the municipality's attorney all information and assistance possible to enable the attorney to secure reimbursement for the municipality.

Investigation of Inmates' Financial Status

Before seeking reimbursement, a municipality must develop a form to be used for determining the financial status of inmates. The form must provide for obtaining the age and marital status of an inmate; number and ages of children of an inmate and other dependents; type and value of real estate, personal property, and investments; cash and bank accounts; pensions and annuities; and any other personal property of significant cash value. The municipality must use the form when investigating the financial status of inmates.

At, and according to, the request of a municipality's legislative body, the chief of police or, if there is no chief of police, the municipal clerk, must forward to the legislative body a list containing the name of each sentenced inmate and each pretrial detainee whose prosecution resulted in conviction from whom reimbursement may be sought under the Act. The list also must include each person's term of sentence or

period of pretrial detention and the date of admission to the municipal or county jail, as well as information regarding the financial status of each inmate, as required by the legislative body.

The legislative body may investigate, or cause to be investigated, all the reports furnished by the chief of police or municipal clerk for the purpose of securing reimbursement.

Cooperation

The bill requires an inmate in a municipal or county jail to cooperate with the municipality in seeking reimbursement for expenses the municipality incurred for that inmate. An inmate who willfully refuses to cooperate may not receive a reduction in his or her term under Section 7 of Public Act 60 of 1962. (That Act pertains to the outside employment of jail inmates. Section 7 allows a prisoner to receive a reduction of one-quarter of his or her term, if approved by the court, if his or her conduct, diligence, and general attitude merit the reduction.)

If an inmate is ordered to reimburse a municipality under the Act as a condition of probation, the inmate is subject to probation revocation as provided in the Code of Criminal Procedure.

Civil Action

Within 12 months after a sentenced inmate or a pretrial detainee whose prosecution resulted in a conviction is released from a municipal or county jail, an attorney for the municipality may file a civil action to seek reimbursement from the person for maintenance and support of the person while he or she was confined in the jail, for costs charged to the municipality by a county for housing the person in the county jail, and for any other expense for which a municipality may be reimbursed under the Act.

A civil action must be instituted in the name of the municipality and state the following, as applicable:

- In the case of an inmate sentenced to the municipal or county jail, the date and place of sentence; the length of time set forth in the sentence; the length of time actually served; and the amount or

amounts due to the municipality under the Act.

- In the case of a person imprisoned as a pretrial detainee on a charge or charges that resulted in conviction, the length of pretrial detention and the amount or amounts due to the municipality under the Act.

Before entering any order on behalf of the municipality against the defendant, the court must take into consideration any legal obligation of the defendant to support a spouse, minor children, or other dependents, as well as any moral obligation to support dependents to whom the defendant is providing or has in fact provided support.

The court may enter a money judgment against the defendant and may order that the defendant's property is liable for reimbursement for maintenance and support of the defendant as an inmate and for other expenses reimbursable under the Act.

The municipality may file the civil action in the district court to recover a money judgment and to enforce that judgment in the same manner as other money judgments entered by the district court. If the defendant is still an inmate in the municipal or county jail or is a prisoner in a State correctional facility, venue in a district of the first class is proper in the county where the municipal jail, county jail, or State correctional facility is located and in a district of the second or third class is proper in the judicial district where the jail or correctional facility is located.

If necessary to protect the municipality's right to obtain reimbursement under the Act against the disposition of known property, the municipality, pursuant to rules of the Michigan Supreme Court, may seek issuance of an ex parte restraining order to restrain the defendant from disposing of the property pending a hearing on an order to show cause why the particular property should not be applied to reimbursement of the municipality for the maintenance and support of the defendant as an inmate. To protect and maintain the property pending resolution of the matter, the court, upon request, may appoint a receiver.

The municipality may not enforce any judgment obtained under the Act by means

of execution against the defendant's homestead.

MCL 801.311-801.321

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

Under the Prisoner Reimbursement to the County Act, a county may seek reimbursement from a person sentenced to a county jail for the cost of maintaining the prisoner (up to \$60 per day or the per diem cost, whichever is less); the cost of investigating the person's financial status; and any other expenses the county incurred to collect payments under the Act. Like counties, many cities, villages, and townships operate municipal jails or lockups, and face significant costs in maintaining prisoners. In addition, some counties charge municipalities for the cost of incarcerating prisoners in the county jail.

The chief of police of the City of Westland testified before the Senate Judiciary Committee that almost half of his department's \$1.3 million operational budget was used to incarcerate and care for prisoners. According to his testimony, Wayne County charges municipalities \$35 per day for incarcerating pretrial detainees, and Westland also pays \$36 per day plus medical expenses to Isabella County for the cost of incarcerating postconviction prisoners. (Westland evidently chooses to send convicted prisoners to the Isabella County jail because of jail crowding problems in Wayne County that trigger early release provisions.)

Under the bill, municipalities have the statutory authority to seek reimbursement from prisoners for the expenses of incarceration, as counties do under the Prisoner Reimbursement to the County Act, and for the costs counties charge municipalities to house prisoners in the county jail.

Opposing Argument

As introduced, Senate Bill 208 would have applied to cities, villages, and townships throughout the State, but the enacted version of the bill authorizes only

municipalities in Wayne, Oakland, Macomb, and Kent Counties to seek reimbursement of incarceration costs.

Response: According to the Westland chief of police, the Michigan Association of Chiefs of Police had some concerns that if the reimbursement authorization applied to all municipalities in the State, some counties that currently do not charge municipalities for housing inmates might be encouraged to begin doing so. Some local police chiefs apparently feared that their municipalities, particularly smaller cities, villages, and townships, might not be able to sustain the cost of reimbursing counties.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill will have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders enter municipal jails and lockups, or county jails at the expense of a municipality. To the extent that local governments are successful at obtaining reimbursement from offenders, the bill will raise revenue for municipalities' general funds. If local governments are unsuccessful at obtaining reimbursement, however, they will incur the administrative costs involved in investigating the offenders' financial status, without the offsetting revenue. Data on these administrative costs are unknown. Currently, only municipalities in Kent, Macomb, Oakland, and Wayne Counties will be affected by the bill. As other counties reach a population of 500,000 or more, those municipalities also will incur costs or receive revenue under the bill. Further, if an inmate refuses to cooperate with the municipality seeking reimbursement and spends more time incarcerated than he or she would have spent otherwise, the local government will incur the costs of incarceration in local facilities, which vary by county. The State will incur the cost of incarceration in a State facility at an average annual cost of \$30,000.

Fiscal Analyst: Lindsay Hollander

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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.