

Legislative Analysis



COLLECTION OF FINES, COSTS, FEES, ETC.

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House Bill 5318 as introduced
Sponsor: Rep. Richard Hammel
Committee: Judiciary

First Analysis (11-13-09)

BRIEF SUMMARY: The bill would allow the collection of certain penalties, fees, and costs related to a criminal case or civil infraction action to be recovered in the same manner as a civil judgment.

FISCAL IMPACT: House Bill 5318 would have an indeterminate, but likely positive, fiscal impact on local units of government. The bill would provide the local units of government with a more cost-effective way of recouping any fine, cost, restitution, reimbursement, assessment, or other fee that is imposed in a criminal case or civil infraction action by allowing recovery through a civil action. Criminal and civil infraction fines are dedicated to public libraries, and many other civil fines are allocated by the statute that imposes them. Currently, local units of government must arrest a person or seize and auction off a person's property in order to obtain past due fines, costs, restitution, or other fees. Therefore, in addition to a more cost effective means of fine and fee recovery for certain acts or omissions, a local unit of government may realize cost savings through reduced jail time.

THE APPARENT PROBLEM:

Currently, a civil action can be used by a circuit court to collect a money judgment imposed in a felony case. A district court, however, must resort to issuing bench warrants for the arrest of persons who fail to pay similar money judgments in a misdemeanor case. Besides being inefficient, arresting people who are behind in their payments places an additional burden on local law enforcement agencies and takes up space in jails needed to house those arrested for violating more serious crimes. It has been suggested that district courts be afforded the same avenue to collect monetary judgments enjoyed by circuit courts.

THE CONTENT OF THE BILL:

The bill would add a provision to the Revised Judicature Act (MCL 600.4805) to specify that, unless otherwise specially provided by law, any fine, cost, restitution, reimbursement, assessment, or other fee that had been imposed in a criminal case (whether a felony or a misdemeanor) or in a civil infraction action could be recovered in the same manner as a civil judgment for money in the same court.

The bill also would revise an existing provision in the RJA that currently says a penalty, fee, or costs incurred by a person where the act or omission is not also a misdemeanor

may be recovered in the same manner as a civil judgment for money. After the revision, that provision would apply to penalties where the act or omission for which the penalty is imposed is not also a felony, misdemeanor, or civil infraction, and it would allow those penalties (but not fees or costs) to be recovered in a civil action. (The revision appears to make this provision now apply to penalties imposed for violations of law that are not crimes or civil infractions.)

BACKGROUND INFORMATION:

The bill is identical to the House-passed version of House Bill 5314 of the 2007-2008 legislative session. The bill failed to see Senate action.

ARGUMENTS:

For:

When Section 4805 of the Revised Judicature Act was amended several years ago to allow circuit courts to collect unpaid money judgments in the same manner as for civil actions, the exclusion for district courts contained in that section was not similarly amended. Since then, a disparity has existed between the two types of courts. A district court can, under other provisions in the RJA, seize real property for auction to satisfy the unpaid costs, fees, and penalties related to a misdemeanor case. The bill would give a district court the option to instead use means available to collect on civil judgments, such as garnishing the person's wages or intercepting state income tax refunds.

The bill further clarifies what types of costs and fees imposed in a criminal case or civil infraction action can be recovered under Section 4805. Supporters of the legislation hope that enactment will improve collection rates for district courts throughout the state, as well as reduce the burden on law enforcement agencies that now must arrest on bench warrants those who haven't paid and house them in often crowded local jails.

The bill would thus provide an efficient and lower-cost means for district courts to collect various court-related costs owed for non-criminal and minor offenses.

POSITIONS:

Representatives of the Genesee County Board of Commissioners and of the Genesee County District Courts testified in support of the bill. (11-4-09)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.