

Legislative Analysis



FEES FROM CUSTODY & SUPPORT CASES

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House Bill 5504

Sponsor: Rep. Jimmy Womack

Committee: Families and Children's Services

Complete to 10-13-09

A SUMMARY OF HOUSE BILL 5504 AS INTRODUCED 10-8-09

House Bill 5504 is part of a package of bills dealing with the Friend of the Court system and child custody and support programs. It contains similar provisions as Senate Bill 103 and is tie-barred to Senate Bills 105, 106, and 107.

House Bill 5504 would amend the Revised Judicature Act (RJA) to do the following:

- Remove a requirement that \$10 of the fees paid in custody, support, and parenting time cases be deposited in the Child Support Bench Warrant Enforcement Fund, and instead allow the county to use the fee revenue to fund services not eligible for title IV-D services and to fund the office of the Friend of the Court.

(Currently, before a final judgment or order is entered in an action in which the custody or parenting time of minor children is determined or modified, the party submitting the judgment or order must pay a fee of \$80. In an action in which the support of minor children is determined or modified, the party submitting the judgment or order must pay a fee of \$40.)

- Increase from \$1.50 to \$3.50 the monthly fee for services that are not reimbursable under Title IV-D of the federal Social Security Act (dealing with child support and paternity), and allocate the additional \$2 to the county general fund (for a total of \$2.25).
- Specify the party responsible for paying certain fees in a proceeding in the circuit court.

Under the act, before the filing of a claim of appeal or a motion for leave to appeal from the district court, the probate court, a municipal court, or an administrative tribunal or agency, \$150 must be paid to the clerk of the circuit court. The bill would require that amount to be paid by the appellant or moving party. The act requires \$20 to be paid to the clerk when a motion is filed. Under the bill, the moving party would have to pay that amount. Upon appeal to the Court of Appeals or the Supreme Court, the appellant would have to pay the \$25 fee currently required under the RJA. The act also requires a \$15 service fee for each writ of garnishment, attachment, execution, or judgment, and each judgment debtor discovery subpoena issued. The bill would require the applicant or requesting party to pay that fee.

- Specify that certain provisions regarding record retention would apply only to records filed with the court and maintained by the court clerk or register.

House Bill 5504 is tie-barred to Senate Bills 105, 106, and 107.

Senate Bill 105 would amend the Divorce Act to delete a requirement under which a person ordered to pay spousal or child support must pay a \$2 monthly service fee, which is credited to the county general fund.

Senate Bill 106 would amend the Paternity Act to provide that the parents of a child born out of wedlock are liable for the medical expenses connected to the mother's pregnancy and the birth of the child; and revise the requirements for apportioning the cost of those expenses between the parents in a paternity action. The bill also would repeal Section 19 of the act, which requires the court to order a person ordered to pay support, to pay a monthly service fee of \$2, which is credited to the county general fund.

Senate Bill 107 would amend the Family Support Act to (1) permit a support order to include expenses of health care, child care, and education, expenses connected with the mother's pregnancy or the birth of the child, and the expense of genetic testing; (2) prohibit a child support order from being retroactive before the date that the complaint for support was filed, except under certain circumstances; and (3) provide for the abatement of any remaining unpaid pregnancy and birth expenses if the father married the mother after the birth of the child or if the father and mother were married at the time of the child's birth or conception and reconciled on terms the court considered appropriate. The bill also would repeal Section 7 of the Act, which requires the court to order a person ordered to pay support, to pay a monthly fee of \$2, which is credited to the county general fund.

For more information on these bills and other bills in the package, see the analysis of Senate Bill 99 by the Senate Fiscal Agency dated 3-4-09.

FISCAL IMPACT:

House Bill 5504 would have a positive but indeterminate fiscal impact on Friend of the Court services within the Judicial branch. Among other things, the bill would increase the fee that a person required to make payments of support or maintenance must pay to the friend of the court from \$1.50 to \$3.50 per month. Also, the bill would direct \$2.25 of the fee to be directed to the county treasurer to be used to fund the provision of services by the Friend of the Court that are not reimbursable under Part D of Title IV of the Social Security Act, 42 US 651 to 669B. House Bill 5504 would eliminate the requirement for the courts to transmit a portion of its fee revenue to the Child Support Bench Warrant Enforcement Fund and instead allow the county to use the fee revenue to fund services not eligible for title IV-D services and to fund the office of the Friend of the Court.

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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.