

Senate Fiscal Agency
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Senate Bill 757 (as passed by the Senate)
Sponsor: Senator Bill Bullard, Jr.
Committee: Families, Mental Health and Human Services

Date Completed: 10-18-99

RATIONALE

Under the Support and Parenting Time Enforcement Act, if a person is ordered to pay support and fails or refuses to do so, and if an order of income withholding is inapplicable or unsuccessful, a recipient of support or the Friend of the Court office may file in the circuit court a petition for an order to show cause why the delinquent payer should not be held in contempt. If the payer fails to appear in response to the show cause order, the court may issue a bench warrant requiring that the payer be brought before the court without unnecessary delay. The Act does not mandate that a bench warrant include any requirement for payment of a bond upon arrest, but a payer who is arrested under this provision and who cannot be brought before the court within 24 hours may recognize for his or her appearance (that is, obligate himself or herself to appear) by leaving a sum of money in an amount determined by the court and stated in the bench warrant. The required sum may not exceed the amount of support arrearage plus costs that may be ordered if the payer fails to appear. Some people feel that these provisions may be insufficient to encourage delinquent payers to make good on their financial responsibility under a support order, and that a bond should be required in the amount of the support arrearage.

CONTENT

The bill would amend the Support and Parenting Time Enforcement Act to specify that a bench warrant issued under the Act for a delinquent payer of support would have to require the payer to deposit a bond in the amount of the arrearage.

The bill also would require that a recognizance be a bond in the amount of the arrearage, rather than a "sum of money" determined by the court. Costs for failure to appear could be included in the bond if the court ordered costs in the bench warrant.

MCL 552.631 & 552.632

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

If a person subject to a support order is delinquent in his or her payment to the extent that he or she is brought before a court on a bench warrant, the court should hold that person responsible for the amount of the support arrearage. According to testimony before the Senate Committee on Families, Mental Health and Human Services, delinquent payers are sometimes released on bonds for far less than their arrearage amount. For instance, in a recent case in Oakland County a payer reportedly owed over \$61,000 in support payments but was released on \$300 bond and an order to pay \$100 per week toward the arrearage. Two days later, the delinquent payer could not be found. If that support payer's bond had been set at the amount of the arrearage, the court could have collected the amount owed to the support recipient. The bill would ensure either that delinquent support payers cooperated with the court in paying off their arrearage or that the delinquent amount was collected on the bond and turned over to the support recipient.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have an indeterminate impact on the State and local units of government. The extent to which the legislation would result in an increased jail population cannot be estimated. Also, increased collections cannot be estimated.

According to the State Court Administrative Office, 49,441 Friend of the Court bench warrants were issued in 1998. The majority of those related to support; however, the number also includes parenting time, visitation, and custody issues.

Fiscal Analyst: B. Bowerman

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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.