

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 757 (as enrolled)
Sponsor: Senator Bill Bullard, Jr.
Senate Committee: Families, Mental Health and Human Services
House Committee: Family and Civil Law

PUBLIC ACT 442 of 2000

Date Completed: 3-2-01

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, the support recipient 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 the payer to be brought before the court without unnecessary delay. If the payer is arrested under this provision and cannot be brought before the court within 24 hours, the payer 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 Act, however, does not mandate that a bench warrant include any requirement for payment of a bond upon arrest. Some people feel that these provisions are insufficient to ensure that delinquent payers make good on their financial responsibility under a support order.

whichever is greater. At its own discretion, the court may add the amount of costs to the amount of the required deposit.

Under the Act, except for good cause shown, the court must order the payer to pay the costs related to the hearing, issuance of the warrant, arrest, and further hearings. The bill retains this provision.

Currently, if a payer arrested under a bench warrant cannot be brought before the court within 24 hours, the payer may recognize for his or her appearance by leaving with the sheriff a sum of money in the amount determined by the court and stated in the bench warrant, but not to exceed the amount of the arrearage that is stated on the bench warrant plus costs. Under the bill, a payer may recognize for his or her appearance by leaving with the sheriff a bond or cash in the amount stated on the bench warrant.

The bill provides that, if the payer does not post the bond or cash under these provisions and remains in custody, the court must hold the show cause hearing within 48 hours after the arrest.

CONTENT

The bill amends the Support and Parenting Time Enforcement Act to require a delinquent payer, arrested under a bench warrant, to remain in custody until a hearing unless he or she deposits a bond or cash of at least \$500 or 25% of the arrearage, whichever is greater. The bill also requires a hearing to be held within 48 hours if the payer remains in custody. The bill will take effect on April 1, 2001.

MCL 552.631 & 552.632

Specifically, in a bench warrant issued for a delinquent payer of support, the bill provides that the court must require that, upon arrest, the payer remain in custody until the time of the show cause hearing unless he or she deposits a bond or cash as required in the Act. The bond or cash amount must be set at not less than \$500 or 25% of the arrearage,

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 making payments to the extent that he or she is brought before a court on a bench warrant, the person should remain in custody unless he or she deposits a significant portion 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 a fraction of their arrearage amount. For instance, in a case in Oakland County, a payer reportedly owed over \$61,000 in support payments but was released on a \$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 deposit had been set at 25% of the arrearage, the payer would have had to deposit a bond or cash of over \$15,000. A sizeable deposit will discourage delinquent payers from absconding.

Legislative Analyst: P. Affholter
S. Lowe

FISCAL IMPACT

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

According to the State Court Administrative Office, 44,616 Friend of the Court bench warrants were issued in 1999. 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.