

Legislative Analysis



BENCH WARRANTS: ALLOW LOCAL GOV'T TO RECOUP COSTS

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House Bill 5055 with committee amendment
Sponsor: Rep. Joel Johnson
Committee: Judiciary

Complete to 6-12-14

A SUMMARY OF HOUSE BILL 5055 AS REPORTED BY COMMITTEE 5-1-14

The bill would allow a court to order a person to reimburse a local unit of government for expenses incurred outside its boundaries in relation to execution of a bench warrant, if the person were convicted.

A bench warrant is a type of arrest warrant issued by a judge (or in some circumstances, a magistrate) in a criminal or civil proceeding that allows a law enforcement officer to arrest a person who has been held in contempt of court, has failed to appear at a scheduled court appearance, or who fails to comply with a court order (for instance, conditions of probation or child support).

House Bill 5055 would amend the Code of Criminal Procedure. If a local government incurs costs for executing a bench warrant to effectuate the arrest of a person, the bill would allow the court to order the person convicted to reimburse the governmental unit for expenses incurred outside the boundaries of the local government in relation to that bench warrant.

MCL 769.1f

FISCAL IMPACT:

A fiscal analysis is in process.

BACKGROUND INFORMATION:

In addition to various monetary sanctions that courts are authorized or mandated to assess, such as state minimum costs and crime victim's rights assessments, the Code of Criminal Procedure also allows a court to order a criminal defendant, as part of the sentence for a conviction of certain offenses, to reimburse a governmental unit for its expenses related to the incident. For instance, the defendant could be ordered to reimburse a city for ambulance or fire services it provided, and for the expenses incurred by the county or city for prosecuting the crime. Some law enforcement agencies would like a court to have the authority to order a defendant to reimburse a local unit of government for expenses incurred when traveling to another jurisdiction to arrest a defendant on a bench warrant.

Testimony submitted by the City of Gladwin Police Department illustrates the expenses a law enforcement agency of a local unit of government can incur in a single arrest:

According to testimony submitted by the Gladwin Police Department, when an officer had to drive from Gladwin to Oakland County to pick up a convicted person on an outstanding bench warrant issued by the Gladwin County District Court, costs for the five-hour round trip, which included the officer's wages and gas for the police vehicle, was approximately \$250. Sometimes a police agency has to pick up the same defendant multiple times, on reissued bench warrants or new ones. As many law enforcement agencies struggle to provide services under decreased funding levels, it is reasonable to expect defendants to reimburse for these transportation costs. Further, allowing a court to impose reimbursement for out-of-jurisdiction transportation costs may act as an incentive for persons to comply with court orders or to show up for scheduled court appearances.

Opponents of the legislation say imposing reimbursement for bench warrant transportation, even when limited to out-of-jurisdiction transport, is an unreliable source of revenue, as the bill imposes fees on those least likely to afford to pay these costs. If the costs aren't paid, the person may be jailed, further burdening local law enforcement and adding to local corrections costs. In addition, some question whether imposing repayment for the cost to be arrested on a bench warrant (which is added on to a long list of mandated and permissive fees and costs) exceeds the bounds of reasonable consequences for the conduct that triggered the bench warrant.

POSITIONS:

The Michigan Sheriffs' Association indicated support for the bill. (5-1-14)

The Michigan Townships Association indicated support for the bill. (3-29-14)

The State Bar of Michigan opposes the bill. (6-12-14)

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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.