

COLLECTION SERVICES TO COURTS

Senate Bill 741 as passed by the Senate First Analysis (12-10-97)

Sponsor: Sen. Harry Gast
Senate Committee: Appropriations
House Committee: Appropriations

THE APPARENT PROBLEM:

In spite of substantial power wielded by the courts, many courts have, in the past, had difficulty collecting fees and fines owed to them. These difficulties stem from the fact that the courts have few, if any, resources to devote to collection efforts, particularly when the amount owed by any one person may be small. Generally, enforcement is limited to the issuance of a bench warrant, which typically means that the offender will be arrested if stopped for another reason, such as a traffic violation. Although the court may find a payer to be in contempt and order him or her jailed, the exercise of this option can easily cost more than the amount owed. Furthermore, jail crowding and the need to incarcerate serious offenders also contribute to making jailing an impractical enforcement mechanism.

In response the problems faced by courts in collecting money for fees and fines, Public Act 316 of 1993 was enacted authorizing local courts and their funding units to enter into agreements with the Department of Treasury to assign past-due fees and fines to the state for collection by the department. For a fee, the department secures collection and payment of the money owed, through means such as interception of tax refunds and other payments due from the state to the delinquent payer. However, the act contains a sunset provision that will repeal the entire act on January 1, 1998. Due to the perceived effectiveness of the act, legislation has been introduced to remove the sunset provision and allow the act allowed continue.

THE CONTENT OF THE BILL:

Senate Bill 741 would repeal the January 1, 1998 sunset for Public Act 316 of 1993 (MCL 12.140). That act allows circuit, district, and municipal courts, and their funding units, to enter into agreements with the Department of Treasury for the collection of past due amounts owed to courts. The Department of Treasury receives a collection fee and the balance of the collected funds is distributed as required by law. Assignments to the state for collection by the Department of Treasury include, but are not limited to, fees, forfeitures, penalties, and costs assessed for criminal offenses, penalties and

costs for civil infractions, and penalties and costs for ordinance violations.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would increase state and local revenues by an indeterminate amount and would increase state costs by an indeterminate amount. (12-4-97)

ARGUMENTS:

For:

Since it took effect on January 1, 1994, Public Act 316 of 1993 has given the courts an economic and effective means of collecting what is owed them. It seems fairly clear that these collection efforts have been fruitful: according to the House Fiscal Agency, a total of \$14,971,500 has been collected under the act's provisions since it took effect. Without the act, few, if any, courts will have the resources to devote to collection efforts, particularly when the amounts owed by any single individual are fairly small.

Response:

Since the arrangements allowed under the act between courts and the treasury department are voluntary, whether a person's court debt would be subject to collection by the treasury department varies from court to court. According to the Senate Fiscal Agency, only six district courts have entered into contracts with the department under the act. This is hardly in keeping with the constitutional concept of one court of justice.

POSITIONS:

The Department of Management and Budget supports the bill. (12-9-97)

Analyst: W. Flory

#

Senate Bill 741 (12-10-97)