

REPEAL PEACE BOND LAW

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House Bill 4139

Sponsor: Rep. Tom McMillin

Committee: Judiciary

Complete to 3-18-13

A REVISED SUMMARY OF HOUSE BILL 4139 AS INTRODUCED 1-30-13

The bill would repeal the peace bond statute. Specifically, House Bill 4139 would repeal Chapter XII of the Code of Criminal Procedure, entitled "Proceedings to Prevent Crime."

MCL 772.1-772.15

BACKGROUND INFORMATION:

Since 1838, Michigan has had a law that provides for judicial orders and the setting of bonds to keep the peace. Presently, that law is contained in Chapter XII of the Code of Criminal Procedure. It was last amended in 1994. Under the peace bond statute, a person may swear out a complaint that someone has threatened the person or property of another, and a judge, after examining the complainant and any witnesses under oath and determining that there is just reason to believe the person will commit the threatened offense, may enter an order directing the person to appear within seven days. If the person fails to appear, the judge could issue a bench warrant or a warrant for the person's immediate arrest. If the person does not consent to post a recognizance, the court must conduct a trial and determine if a recognizance is required.

If found likely to breach the peace, the person is required to "enter into a recognizance with sufficient sureties" to keep the peace towards all people of the state and especially toward the individual or individuals named in the complaint. Refusal to provide the bond can result in the person being jailed until the bond is paid, although a hearing must be conducted before a person can be jailed to determine if the person has the resources to pay the bond.

The statute also requires a court to dismiss a frivolous or malicious action, allows a court to order a person to pay prosecution costs, and establishes a right of appeal. Once the peace bond is paid, the person is released from jail. Violating the conditions of a recognizance can result in rearrest and forfeiture of the recognizance. A person who violates an order to keep the peace in domestic violence cases is subject to the contempt powers of the court and may be imprisoned for not more than 90 days or fined not more than \$500, or both.

FISCAL IMPACT:

To the extent that the bill reduces actions taken by district or municipal judges, courts may see reduced costs due to a decrease in caseload. The expected reduction is not known but would not likely be significant. To the extent that the bill reduces imprisonment due to failure to pay recognizance or for noncompliance with a court order, the bill could reduce local costs related to incarceration in county jails. It also could reduce civil fine revenue related to these violations, which is dedicated to public libraries. Data is not available on the number of individuals incarcerated or fined for these purposes.

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