

JUVENILE JUSTICE SYSTEM FEES AND ASSESSMENTS

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Senate Bill 428 (S-2) as passed by the Senate
Sponsor: Sen. Stephanie Chang

Analysis available at
<http://www.legislature.mi.gov>

Senate Bill 429 (S-2) as passed by the Senate
Sponsor: Sen. Jeff Irwin

House Committee: Criminal Justice
Senate Committee: Civil Rights, Judiciary, and Public Safety
Complete to 10-13-23

SUMMARY:

Senate Bills 428 and 429 would amend different acts to eliminate certain fees and costs that are associated with involvement in the juvenile justice system. As far as those changes go (see “Conflict information,” below), the Senate bills are largely identical to House Bills 4634 and 4635, respectively. They are also related to House Bills 4636 and 4637, which are now on Third Reading and are described in “Background,” below.

Conflict information

Senate Bill 428, as passed by the Senate, is a “conflict substitute” that incorporates changes from other bills in the larger juvenile justice package. Generally speaking, conflict substitutes can resolve potential conflicts between two different bills that amend the same section of law. Without a substitute that takes both bills into account, the last bill enacted would overwrite and undo the changes made by the earlier bill.

Specifically, Senate Bill 428 (S-2) includes changes from House Bill 4628 regarding use of screening tools in consent calendar decisions and changes from Senate Bill 421 concerning a risk and needs assessment before juvenile disposition.

Note that Senate Bill 428 (S-2) also includes changes from House Bill 4633 limiting the period of a consent calendar plan, but while House Bill 4633 (H-3) (placed on Third Reading) would limit that period to six months, Senate Bill 428 (S-2) would limit it to three months.

Senate Bill 428 would amend Chapter XIIA of the Probate Code, commonly known as the juvenile code, to prohibit a court from ordering a juvenile within its jurisdiction under the chapter or the juvenile’s parent, guardian, or legal custodian to reimburse it for any fine, fees, or costs related to the juvenile’s court case. Beginning July 1, 2024, courts would be prohibited from collecting the balance of any court-ordered fines, fees, or costs previously assessed to a juvenile under section 18m or 29 of Chapter XIIA, and the portion of the court order that imposed those fines, fees, and costs would be vacated and unenforceable.

The bill would also add specific provisions to prohibit a court from doing any of the following:

- Ordering, in a consent calendar case plan, a juvenile or the juvenile’s parent, guardian, or legal custodian to pay for fees or costs associated with consent calendar services.
- Ordering a juvenile or the juvenile’s parent, guardian, or legal custodian to pay for fees or costs associated with community service the juvenile is ordered to engage in.

- Ordering a juvenile or the juvenile’s parent, guardian, or legal custodian to pay fines associated with a violation of a municipal ordinance or a state or federal law if another disposition under section 2f of Chapter XIIIA has been ordered.
- Placing a juvenile outside of the juvenile’s home based on nonpayment of restitution or refusal to perform community service.

The bill would eliminate provisions that now do the following:

- Require an order of disposition placing a juvenile in or committing a juvenile to care outside the juvenile’s own home and under supervision of the state, a county juvenile agency, or the court to contain a provision for reimbursement by the juvenile or the juvenile’s parent, guardian, or legal custodian for the cost of care or service.
- Allow a court to enter an order to intercept state or federal tax refunds of a juvenile or the juvenile’s parent, guardian, or legal custodian to pay the costs of the care or service described above.
- Require a court to send notice of the above order to the Department of Treasury.
- Require an order of disposition placing a juvenile in the juvenile’s own home (on probation or under supervision) to contain a provision for reimbursement by the juvenile or the juvenile’s parent, guardian, or legal custodian for the cost of service.
- Require the State Court Administrative Office to create guidelines for determining the ability of a juvenile or the juvenile’s parent, guardian, or legal custodian to pay for care and cost of services ordered under the above three bulleted provisions.
- Allow a court to require a juvenile or the juvenile’s parent, guardian, or legal custodian to pay reimbursement of attorney fees for a court-appointed attorney.
- Allow the superintendent of the institution where a juvenile is committed to be named as a special guardian to receive benefits due to the juvenile from the United States government and to use those benefits to pay for portions of the cost of care in the institution that the juvenile’s parents are found unable to pay.
- Require a court to order a juvenile to pay the applicable assessment under 1989 PA 196 upon conviction for an offense that is a misdemeanor, felony, or ordinance violation or disposition based on an act that if committed by an adult would be a felony, misdemeanor, or ordinance violation.¹

The bill would repeal section 18m of Chapter XIIIA,² which prescribes a minimum payment (the “minimum state cost”) for a juvenile ordered to pay any combination of fines, costs, restitution, assessments of payments arising out of the same juvenile proceeding and provides related procedures. The bill would eliminate related provisions that currently do the following:

- Require a court to order a juvenile under the court’s jurisdiction under section 2(a)(1) of Chapter XIIIA to pay costs as provided under section 18m.
- Allow a court to order a juvenile to pay the minimum state cost as a condition of probation or supervision.
- Allow a juvenile who was order to pay the minimum state cost and is not in willful default to petition for remission of an unpaid portion on the basis of hardship.

Finally, the bill would amend section 29, which provides for the allocation of money collected from a child or the child’s parents in paying fines, costs, restitution, assessment, or other payments arising out of the same order of disposition.

¹ 1989 PA 196: <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-Act-196-of-1989.pdf>

² <http://legislature.mi.gov/doc.aspx?mcl-712A-18m>

The bill would eliminate references to fines, costs, and assessments and most of the provisions specifying where that money must be allocated.

Instead, the bill would provide that 100% of the money collected from a child who is subject to payment of crime victim payments or other payments (or collected from that child's parents) must first be applied to the payment of restitution to a victim or victim's estate before the balance can be applied to assessments to the Crime Victim Rights Fund. (As currently, crime victim payments would include restitution ordered under sections 30 and 31 of the juvenile code³ and under the William Van Regenmorter Crime Victim's Rights Act that is paid directly to the victim or the victim's estate, and it would also include assessments to the Crime Victim Rights Fund ordered under 1989 PA 196.)

The bill would take effect October 1, 2024. It could not take effect unless Senate Bills 421 and 429 and House Bills 4628, 4622, and 4636 were also enacted.

MCL 712A.2f et seq.

Senate Bill 429 would amend the DNA Profiling System Act, which requires a court to order each individual convicted of or found responsible for a felony or other crime listed in the act to pay an assessment of \$60 in addition to any other fines, costs, or other assessments imposed by the court. The bill would provide that this assessment does not apply to a juvenile, or a parent, guardian, or legal custodian of a juvenile, within the jurisdiction of the court under section 2 of the juvenile code.

The bill would take effect October 1, 2024. It could not take effect unless Senate Bill 428 and House Bills 4636 and 4637 were also enacted.

MCL 28.176

BACKGROUND:

The Michigan Task Force on Juvenile Justice Reform was created by Executive Order 2021-6 as a bipartisan advisory body in the Department of Health and Human Services⁴ to "lead a data-driven analysis of [Michigan's] juvenile justice system and recommend proven practices and strategies for reform grounded in data, research, and fundamental constitutional principles." In particular, in the words of its final report,⁵ the task force was "charged with developing recommendations to improve state law, policy, and appropriations guided by the following objectives:

- Safely reduce placement in detention and residential placement and associated costs.
- Increase the safety and well-being of youth impacted by the juvenile justice system.
- Reduce racial and ethnic disparities among youth impacted by the juvenile justice system.
- Improve the efficiency and effectiveness of the state's and counties' juvenile justice systems.
- Increase accountability and transparency within the juvenile justice system.
- Better align practices with research and constitutional mandates."

³ <http://legislature.mi.gov/doc.aspx?mcl-712A-30> and <http://legislature.mi.gov/doc.aspx?mcl-712A-31>

⁴ <https://www.legislature.mi.gov/documents/2021-2022/executiveorder/pdf/2021-EO-06.pdf>

⁵ <https://micounties.org/wp-content/uploads/Michigan-Taskforce-on-Juvenile-Justice-Reform-Final-Report.pdf>

The task force issued its final report on July 18, 2022.⁶

Among its unanimous recommendations was that the state “Eliminate most non-restitution fees and costs associated with juvenile justice system involvement,” with the goal that “Juvenile court and probation cannot assess fees/costs except for restitution, or a fee/cost related to the Crime Victims Fund.”

House Bill 4636 would amend the Revised Judicature Act, which requires a person to pay a late penalty if they fail to pay in full a penalty, fee, or costs ordered by a court within 56 days after that amount is due and owing. The bill would provide that this late penalty does not apply to a juvenile or to a parent, guardian, or legal custodian of a juvenile within the jurisdiction of the court under section 2 of the juvenile code.

The H-2 substitute of the bill, now on Third Reading, would take effect October 1, 2024, and could not take effect unless Senate Bills 428 and 429 and House Bill 4637 were also enacted.

MCL 600.4803

House Bill 4637 would amend Chapter IX of the Code of Criminal Procedure to eliminate provisions that now do the following:

- Require a juvenile who is committed to an institution or agency described in the Youth Rehabilitation Services Act or the person responsible for the juvenile’s support to be ordered to reimburse the court for the cost of care and service.
- Allow the court to intercept state or federal tax refunds to recover the costs described above if the account is delinquent.
- Allow the court to require reimbursement by the juvenile or the person responsible for the juvenile’s support of fees for an attorney the court appointed to represent the juvenile.

The H-2 substitute of the bill, now on Third Reading, would take effect October 1, 2024, and could not take effect unless Senate Bills 428 and 429 and House Bill 4636 were also enacted.

MCL 769.1

FISCAL IMPACT:

Senate Bills 428 and 429, considered together with House Bills 4636 and 4637, would have an indeterminate fiscal impact on the state and on local units of government. Revenue collected from the payment of fines, fees, and costs by a juvenile, or the parents of a juvenile on the juvenile’s behalf, would be eliminated. Under the bills, fines, fees, and costs would no longer be assessed to juveniles involved with the juvenile justice system, and, beginning July 1, 2024, courts would no longer be authorized to collect on the balance of any fines, fees, or costs owed by juveniles. If a juvenile is subject to payment of crime victim payments, 100% of the money collected from the juvenile, or the juvenile’s parents, would be required to be applied to payment of restitution to a victim or victim’s estate before the balance could be applied to assessments to the Crime Victim Rights Fund. The amount of revenue that would be lost by the state and by local units under these bills is unknown and would depend on factors such as

⁶ <https://www.michigan.gov/whitmer/news/press-releases/2022/07/18/task-force-on-juvenile-justice-reform-approves-blueprint-for-transforming-juvenile-justice>

whether violations were violations of state law or local ordinances, the designated recipients of the revenue from fines, fees, and costs paid, and whether penalties were assessed for failure to pay fines, fees, or costs within a specified time frame.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.