



Senate Fiscal Agency
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Senate Bill 428 through 431 (as introduced 6-28-23)
Sponsor: Senator Stephanie Chang (S.B. 428)
Senator Jeff Irwin (S.B. 429)
Senator Erika Geiss (S.B. 430)
Senator Jeremy Moss (S.B. 431)
Committee: Civil Rights, Judiciary, and Public Safety

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INTRODUCTION

Collectively, the bills would prohibit a court from ordering a juvenile or a juvenile's parent, guardian, or legal custodian to pay non-restitution costs associated with the juvenile's court case, court proceedings, or post-disposition care. These costs would include consent calendar service fees and juvenile agency costs of care and service, among others. The bills also would prohibit a court from collecting the balance of any court-ordered fines or fees assessed to a juvenile and from entering an order to intercept the tax refunds of a juvenile or the juvenile's parent or guardian to recover the costs of care or service. Additionally, a juvenile could not be placed outside his or her home solely based on nonpayment of restitution or refusal to perform community service.

Senate Bill 428 is tie-barred to Senate Bills 429, 430, and 431. The bills would take effect July 1, 2024.

BRIEF FISCAL IMPACT

The bills would likely result in an upfront loss of revenue for the State and local governments at an indeterminate amount. Some of this loss would likely be mitigated by a synonymous reduction in collection efforts costs. It is also possible that a resulting reduction in juvenile incarceration or detention costs, long term, could further mitigate or eliminate immediate revenue losses to the State and local units of government.

PREVIOUS LEGISLATION

(Note: This section does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)

Senate Bills 428, 429, 430, and 431 are companion bills to House Bills 4634, 4635, 4636, and 4637 of the 2023-2024 Legislative Session, respectively. Senate Bills 429 and 430 are reintroductions of House Bills 4989 and 4991 of the 2021-2022 Legislative Session, whereas Senate Bills 428 and 431 are similar to House Bill 4987 and 4990 of the same session.

MCL 712A.2f et al. (S.B. 428)
28.176 (S.B. 429)
600.4803 (S.B. 430)
769.1 (S.B. 431)

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CONTENT

Senate Bill 428 would amend the juvenile Code to do the following:

- **Prohibit a court from ordering a juvenile or a juvenile's parent, guardian, or legal custodian to pay specified fees or costs associated with the juvenile's court case, court proceedings, or post-disposition care.**
- **Prohibit the court from collecting the balance of any court-ordered fines, fees, or costs previously assessed to a juvenile, beginning July 1, 2024.**
- **Prohibit an individual from being placed outside of his or her home solely based on nonpayment of restitution or refusal to perform community service.**
- **Require 100% of the money collected from a juvenile subject to payment of victim payments to be applied to payment of such.**
- **Repeal Section 18m of the Code, which establishes the minimum costs a juvenile must pay arising from a juvenile proceeding.**

Senate Bill 429 would amend the DNA Identification Profiling System Act to exempt a juvenile within the jurisdiction of the court under the juvenile Code from the requirement to pay a \$60 assessment for the retention of the juvenile's DNA identification profile.

Senate Bill 430 would amend the Revised Judicature Act to exempt a juvenile within the jurisdiction of the court under the juvenile Code from a late penalty if the juvenile failed to pay a fee or cost associated with court proceedings in 56 days.

Senate Bill 431 would amend the Code of Criminal Procedure to delete the following:

- **A requirement that the written order of commitment for a juvenile committed to a juvenile agency include a provision for the reimbursement to the court by the juvenile or the juvenile's guardians for the cost of care or service.**
- **A provision allowing the court to enter an order to intercept the tax refunds of a juvenile or his or her parent, guardian, or custodian for recovery of costs of care or service on a delinquent account.**
- **A provision allowing the court to order a juvenile or person responsible for the juvenile's support, or both, to reimburse the court for attorney fees if the court appoints an attorney to represent the juvenile.**

Senate Bill 428

Prohibition of Juvenile Fees

Among other things, the juvenile Code allows the court to order a juvenile or the juvenile's parent, guardian, or legal custodian to pay a variety of fines. The fines include:

- Reasonable reimbursement to the court for the cost of consent calendar services, considering the juvenile's income and resources.
- As a condition of probation or supervision, the minimum State cost for a juvenile (\$68.00, if the juvenile is found to be within the court's jurisdiction for a felony, or \$50.00, if the juvenile is found to be within the court's jurisdiction for a misdemeanor or ordinance violation).¹
- If the court finds a juvenile has violated a municipal ordinance or State or Federal law, a civil fine in the amount of the civil or penal fine provided by the ordinance or law.

¹ MCL 712A.18m(1)

- Reasonable reimbursement for the cost of care or service outside of a juvenile's own home and under State, county juvenile agency, or court supervision, taking into account the income and resources of the juvenile, parent, guardian, or custodian.
- Reimbursement to the court for the cost of service for an order of disposition placing a juvenile in the juvenile's own home.
- If the court appoints an attorney to represent a juvenile, reasonable reimbursement to the court for attorney fees, taking into account the income and resources of the juvenile, parent, guardian, or custodian.
- If the court enters an order of disposition based on an act classified as a juvenile offense under Public Act (PA) 196 of 1989, which describes the rights of crime victims, the cost of the required assessment under PA 196.
- If the court enters a judgement of conviction for an offense that is a felony, misdemeanor, or ordinance violation, the cost of the assessment as provided by PA 196.
- If the juvenile is within the court's jurisdiction, the minimum State cost for a juvenile described above.

The bill would delete these fines. Instead, the bill would specify that a court could not order a juvenile or a juvenile's parent, guardian, or legal custodian to pay for fees or costs associated with consent calendar services; community service; a violation of a municipal ordinance or a State or Federal law if another disposition had been ordered; the costs of care, services, court-appointed attorney representation, or other costs or assessments related to the juvenile court's proceedings; or to reimburse the court for any fine, fees, or costs related to the juvenile's court case.

Beginning July 1, 2024, the court could not collect the balance of any court-ordered fines, fees, or costs previously assessed to a juvenile. Only the portion of any court order that imposed those fines, fees, or costs would be vacated and unenforceable. Additionally, the bill would prohibit an individual from being placed outside of his or her home solely based on nonpayment of restitution or refusal to perform community service.

Under the juvenile Code, if the court requires a juvenile or the juvenile's parent, guardian, or legal custodian to reimburse the court for the cost of care or service outside of a juvenile's own home and under State, county juvenile agency, or court supervision, the reimbursement provision applies during the entire period the juvenile remains in care outside the juvenile's own home, unless the juvenile is in permanent custody of the court. If the juvenile receives adoption assistance under the Social Welfare Act, the amount must not exceed the amount of the support subsidy. The bill would delete these provisions.

The Code allows a juvenile who has been ordered to pay the minimum State cost as a condition of probation or supervision and who is not in willful default of payment to petition the court at any time for a remission of the payment of any unpaid portion of the minimum State cost. If the court determines that payment of the amount due will impose a manifest hardship on the juvenile or his or her immediate family, the court may remit all or part of the amount of the minimum State cost due or modify the method of payment. The bill would delete this provision.

Currently, in cases of delinquent accounts, the court may enter an order to intercept State or Federal tax refunds of a juvenile, parent, guardian, or custodian and initiate the necessary offset proceedings to recover the cost of care or service. The court must send to the person who is the subject of the intercept order advance written notice of the proposed offset. The notice must include notice of the opportunity to contest the offset on the grounds that the intercept is not proper because of a mistake of fact concerning the amount of the delinquency or the identity of the person subject to the order. The bill would delete these provisions.

Additionally, in an order of commitment to a State institution or agency described in the Youth Rehabilitation Services Act, except for commitment to the Department of Health and Human Services (DHHS) or a county juvenile agency, the court must name the superintendent of the institution where the juvenile is committed as a special guardian to receive benefits due to the juvenile from the United States Government. An order of commitment to DHHS or a county juvenile agency must name that agency as a special guardian to receive those benefits. The benefits received by the special guardian must be used to pay for the portions of the cost of care in the institution or facility that the parent or parents are found unable to pay. The bill would delete this provision.

Victim Payments

Under the Code, if a child is subject to payment of victim payments and any combination of other fines, costs, assessments, or other payments, 50% of the money collected from that child, or his or her parent or parents, must be first applied to payment of victim payments.

The remaining balance must be applied to the payment of fines, costs, and other assessments or payments. If fines, costs, or other assessments or payments remain unpaid after all victim payments have been paid, additional money collected will be applied to payment of those fines, costs, or other assessments or payments, and vice versa.

In cases involving orders of disposition for offenses that would be violations of State law if committed by an adult or violations of local ordinances if committed by an adult, money allocated for payment of fines, costs, and assessments or payments other than victim payments must be applied in the following order of priority:

- Payment of the minimum State cost.
- Payment of other costs.
- Payment of fines.
- Payment of assessments and other payments.

The bills would delete the above provisions. Under the bill, if a child were subject to payment of victim payments, 100% of the money collected from that child, or his or her parent or parents, would have to be applied first to payment of victim payments.

("Victim payments" means restitution under the juvenile Code and under the William Van Regenmorter Crime Victims' Rights Act ordered to be paid to the victim or the victim's estate, but not to a person who reimbursed the victim for his or her loss. Under the bill, victim payments would also include payments to the Crime Victim Rights Fund ordered under PA 196 of 1989).

Senate Bill 429

The DNA Identification Profiling System Act requires the Department of State Police (MSP) to permanently retain a DNA identification profile of an individual if the individual is arrested for committing or attempting to commit, convicted of, or found responsible for a felony offense or an offense that would be a felony if committed by an adult. This provisions also applies to individuals found guilty of specified misdemeanors or violations of specified local ordinances.

The Act requires the court to order each individual found responsible for or convicted of one or more of these crimes to pay an assessment of \$60. The bill would exempt a juvenile within the jurisdiction of the court under the juvenile Code from paying this assessment.

Senate Bill 430

Among other things, the Revised Judicature Act prescribes a late penalty equal to 20% of the amount owed if a person fails to pay a penalty, fee, or cost within 56 days of the amount being due. The bill would exempt a juvenile within the jurisdiction of the court under the juvenile Code from this late fee.

Senate Bill 431

Under the Code of Criminal Procedure, if a juvenile is committed to a juvenile agency, the written order of commitment must contain a provision for the reimbursement to the court by the juvenile or those responsible for the juvenile's support for the cost of care or service. The amount of reimbursement ordered must be reasonable, considering the income and resources of the juvenile and those responsible for the juvenile's support. The reimbursement provision applies during the entire period the juvenile remains in care outside the juvenile's own home and under court supervision. The Code specifies further how this reimbursement is allotted.

In cases of delinquent accounts, the court also may enter an order to intercept State tax refunds or the Federal income tax refund of a child, parent, guardian, or custodian and initiate to recover the cost of care or service. The court must send to the person who is the subject of the intercept order advance written notice of the proposed offset.

Additionally, if the court appoints an attorney to represent a juvenile, an order may require the juvenile or person responsible for the juvenile's support, or both, to reimburse the court for attorney fees.

The bill would delete all the provisions described above.

BACKGROUND

Governor Gretchen Whitmer signed Executive Order 2021-6 on June 9, 2021, which, among other things, created the Task Force on Juvenile Justice Task (Task Force) as a temporary advisory body within the Department of Health and Human Services (DHHS). The Task Force was charged with acting in an advisory capacity with the goal of developing ambitious, innovative, and thorough analysis of Michigan's juvenile justice system, and include recommendations for changes to State law, policy, and appropriations aimed to improve youth outcomes.²

The Task Force released its report and recommendations on July 22, 2022. Overall, the report found that the quality of services and case management received by youth, from defense to post-disposition placement, differs across the State. The State lacks uniform judicial justice policies and quality assurance standards, leading to disparities the State cannot address and data it cannot rely upon. Additionally, the lack of State centralization has led to discrepancies in the implementation of research-based, developmentally appropriate practices across the State. Accordingly, children participating in the judicial justice system may not receive quality care or may receive care different from their peers.

Among other recommendations, the Task Force unanimously recommended that most non-restitution fees and costs associated with the juvenile justice system be eliminated.³

² Executive Order 2021-6.

³ *Michigan Task Force on Juvenile Justice Reform Report and Recommendations*, p. 17, July 22, 2022.

FISCAL IMPACT

Senate Bill 428

The bill, in addition to Senate Bills 430 and 431, would eliminate non-restitution fees and costs for juvenile adjudication. The cost to local courts and the State are indeterminate; however, associated costs related to the current collection of such fees and costs would also be reduced, again, to an indeterminate degree. According to the State Court Administrative Office, the statewide costs for local courts to collect such fees are high and may currently cost court systems more than the outstanding amounts owed on an annual basis. This cannot be confirmed.

Some statewide data is available. According to the most recent Statewide Circuit Court Summary, total dispositions in circuit court under the juvenile code amounted to 20,762 in 2021.⁴ Additionally, there were 2,181 consent calendar proceedings for juveniles that same year.

Senate Bill 429

The bill would have a minimal negative fiscal impact on the Justice System Fund, as it would end the requirement that a juvenile, convicted under the bill in which DNA analysis costs were involved in the prosecution, pay an assessment of \$60, which would be deposited into the Fund. The Fund was created by Public Act 97 of 2003 to simplify the assessment, collection, and distribution of monetary obligations imposed in criminal cases. Revenue deposited into the Fund comes from various assessments related to court penalties and is distributed according to a percentage formula outlined in the Revised Judicature Act, which supports justice-related activities across State government in the Departments of Corrections, DHHS, MSP, and Treasury. The Fund also supports justice-related issues in the Legislative Retirement System and the Judiciary. For FY 2021-22, these distributions totaled \$33.1 million in restricted revenue.

Senate Bill 430

The bill could result in an indeterminate loss in revenue for local funding units. Late fees would no longer be imposed on juveniles within the jurisdiction of the court. Currently, late fee revenue is transmitted by the clerk of the court to the treasurer or chief financial officer of the funding unit of the court for deposit in the general fund of the funding unit. The loss in revenue is indeterminate and dependent on the number of actual late fees that would no longer be imposed.

⁴ Available at: <https://www.courts.michigan.gov/4a8ef2/siteassets/reports/statistics/caseload/2021/statewide.pdf>

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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.