

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE

House Bill 270 (Delegate Hubbard, *et al.*)
Judiciary

Failure to Pay Spousal or Child Support - Constructive Civil Contempt

This bill provides that in a constructive civil contempt proceeding for failure to make a court-ordered spousal or child support payment, inability to pay the full amount owed is not a defense to civil contempt. The bill also stipulates that an obligor may not be found in contempt if the obligor (1) demonstrates the inability to pay more than has been paid; (2) did not have access to the resources to meet the support payments due and was physically or mentally disqualified from performing a job; or (3) was incarcerated. If a court finds an obligor in contempt, the court must issue a written order including the sanction imposed for the contempt. The court is authorized to defer the sanction to allow the obligor an opportunity to purge the contempt by (1) complying with the support order; or (2) seeking employment.

Fiscal Summary

State Effect: Potential significant decrease in general fund expenditures if more obligors comply with court-ordered payments, as discussed below. Minimal increase in general fund revenues and expenditures if more obligors are found in contempt of court.

Local Effect: Minimal increase in revenues and expenditures if more obligors are found in contempt of court, as discussed below.

Small Business Effect: None. The bill would not directly affect small businesses.

Fiscal Analysis

State Effect: General fund expenditures could decrease by an indeterminate but significant amount to the extent that the bill's provisions allowing an obligor to purge a contempt citation spur the obligor to comply with the order for spousal or child support and relieve the

State of the need to provide cash assistance to a spouse or child.

The bill's requirements could increase the number of obligors found in contempt of court. Current law provides that an individual failing to make a court-ordered support payment must be served with an order that directs the individual to show cause why the individual should not be held in contempt. Any increase in the number of obligors found in contempt would be at least partially offset by the bill's provisions under which an obligor either (1) may not be found in contempt; or (2) if found in contempt, is allowed an opportunity to purge the contempt. As a result, any increase in the number of obligors found in contempt of court is assumed to be minimal.

General fund revenues could increase under the bill's contempt of court provisions for those cases heard in the District Court, depending upon the number of convictions and fines imposed.

General fund expenditures could increase as a result of the bill's contempt of court provisions due to increased payments to counties for reimbursement of inmate costs, depending upon the number of convictions and sentences imposed.

Persons serving a sentence of one year or less are sentenced to a local detention facility. The State reimburses counties for part of the per diem rate after a person has served 90 days. State per diem reimbursements for fiscal 1998 are estimated to range from \$12 to \$42 per inmate, depending upon the jurisdiction. Persons sentenced in Baltimore City are incarcerated in the Baltimore City Detention Center (BCDC), a State operated facility. The per diem cost for fiscal 1998 is estimated at \$43 per inmate.

Local Revenues: Revenues could increase under the bill's contempt of court provisions for those cases heard in the circuit courts, depending upon the number of convictions and fines imposed.

Local Expenditures: Expenditures could increase as a result of the bill's contempt of court provisions depending upon the number of convictions and sentences imposed. Counties pay the full cost of incarceration for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$23 to \$83 per inmate in fiscal 1998.

Information Source(s): Department of Human Resources, Judiciary (Administrative Office of the Courts), Department of Fiscal Services

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