

Introduced by Senator Polanco

February 20, 1996

An act to add Section 7704 to the Family Code, to amend Sections 980 and 1196 of, and to add Section 1276.6 to, the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 1630, as introduced, Polanco. Criminal procedure: bench warrants: bail bonds.

(1) Existing law requires a clerk, or judge or justice, to issue a bench warrant on application of the prosecuting attorney whenever the defendant fails to appear in court as required by law or does not appear for judgment when his or her personal appearance is necessary.

This bill requires the clerk, or judge or justice, to issue the bench warrant without application of the prosecuting attorney, and to notify the Department of Justice to obtain a Criminal Investigation and Identification (CII) number for each bench warrant issued and to enter each bench warrant issued on a felony case into the national warrant system (National Crime Information Center (NCIC)). Because the bill would increase the duties of the clerk, the bill would impose a state-mandated local program.

(2) Existing law authorizes the court to order the discharge of a defendant upon the acceptance of an undertaking of sufficient bail for the appearance of the defendant, or that the bail will pay a specified sum. Existing law specifies persons who are authorized to approve and accept bail, including, but not limited to, the officer in charge of a jail where an arrested

person is held in custody, an employee of a sheriff's department or police department of a city who is assigned by the department to collect bail, and the clerk of the superior court in which the case against the defendant is pending.

This bill would require any person authorized to accept bail to collect a fee of \$10 for each bail bond posted. The bill would require all fees collected pursuant to this provision to be transmitted to the county clerk, who shall transmit the fees quarterly to the State Treasury. The bill would require \$8 of each bond posting fee to be deposited in the Childrens' Guardian Fund, to be appropriated as described in (3) below, and \$2 of each bond posting fee to be deposited in the Department of Justice Foreign Prosecutions Fund. All funds deposited in the Department of Justice Foreign Prosecutions Fund would be available, upon appropriation by the Legislature, for expenditure by the department for maintenance and support of the Foreign Prosecutions Unit of the department. Because the bill would increase the duties of local entities, the bill would impose a state-mandated local program.

This bill would create the Childrens' Guardian Fund. All funds deposited in the Childrens' Guardian Fund would be available, upon appropriation by the Legislature, for expenditure by the Office of the Childrens' Guardian, for the maintenance and support of the office.

(3) This bill would provide that the provisions described in (2) above shall become operative only if an unspecified bill is also enacted and becomes operative on or before January 1, 1997.

(5) By imposing the \$10 bail bond posting fee, this bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of



mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7704 is added to the Family
2 Code, to read:
3 7704. There is hereby created the Childrens'
4 Guardian Fund. All funds deposited in the Childrens'
5 Guardian Fund pursuant to Section 1276.6 of the Penal
6 Code shall be available, upon appropriation by the
7 Legislature, for expenditure by the Office of the
8 Childrens' Guardian, for the maintenance and support of
9 the office.

10 SEC. 2. Section 980 of the Penal Code is amended to
11 read:
12 980. (a) At any time after the order for a bench
13 warrant is made, whether the court is sitting or not, the
14 clerk may, ~~on application of the prosecuting attorney,~~
15 issue a bench warrant to one or more counties.
16 (b) *The clerk shall notify the Department of Justice to*
17 *obtain a Criminal Investigation and Identification (CII)*
18 *number for each bench warrant issued, and to enter each*
19 *bench warrant issued on a felony case into the national*
20 *warrant system (National Crime Information Center*
21 *(NCIC)).*

22 SEC. 3. Section 1196 of the Penal Code is amended to
23 read:
24 1196. (a) The clerk, or the judge or justice, if there is
25 no clerk, ~~on application of the prosecuting attorney,~~ must
26 at any time after the order issue a bench warrant into one
27 or more counties.



1 (b) *The clerk, or the judge or justice, shall notify the*
2 *Department of Justice to obtain a Criminal Investigation*
3 *and Identification (CII) number for each bench warrant*
4 *issued, and to enter each bench warrant issued on a felony*
5 *case into the national warrant system (National Crime*
6 *Information Center (NCIC)).*

7 SEC. 4. Section 1276.6 is added to the Penal Code, to
8 read:

9 1276.6. (a) Any person authorized to accept bail
10 pursuant to subdivision (a) of Section 1269b shall collect
11 a fee of ten dollars (\$10) for each bail bond posted.

12 (b) All fees collected pursuant to this section shall be
13 transmitted to the county clerk, who shall transmit the
14 fees quarterly to the State Treasury. Eight dollars (\$8) of
15 each bond posting fee shall be deposited in the Childrens'
16 Guardian Fund, and two dollars (\$2) of each bond posting
17 fee shall be deposited in a special account in the General
18 Fund which is hereby created and named the
19 Department of Justice Foreign Prosecutions Fund. All
20 funds deposited in the Department of Justice Foreign
21 Prosecutions Fund shall be available, upon appropriation
22 by the Legislature, for expenditure by the department for
23 maintenance and support of the Foreign Prosecutions
24 Unit of the department.

25 SEC. 5. Sections 1 and 4 of this act shall become
26 operative only if Senate Bill _____, which adds Part 7
27 (commencing with Section 7200) to Division 11 of the
28 Family Code, is also enacted and becomes operative on
29 or before January 1, 1997.

30 SEC. 6. Notwithstanding Section 17610 of the
31 Government Code, if the Commission on State Mandates
32 determines that this act contains costs mandated by the
33 state, reimbursement to local agencies and school
34 districts for those costs shall be made pursuant to Part 7
35 (commencing with Section 17500) of Division 4 of Title
36 2 of the Government Code. If the statewide cost of the
37 claim for reimbursement does not exceed one million
38 dollars (\$1,000,000), reimbursement shall be made from
39 the State Mandates Claims Fund.



1 Notwithstanding Section 17580 of the Government
2 Code, unless otherwise specified, the provisions of this act
3 shall become operative on the same date that the act
4 takes effect pursuant to the California Constitution.

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