

Legislative Analysis



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REVISE ALLOWABLE COURT COSTS

House Bill 5785 as enacted
Public Act 352 of 2014
Sponsor: Rep. John Walsh
House Committee: Judiciary
Senate Committee: Judiciary

Complete to 7-9-19

A LEGISLATIVE SUMMARY OF HOUSE BILL 5785 AS ENACTED

House Bill 5785 amends the Code of Criminal Procedure to allow a court to impose certain costs on a defendant found guilty of a crime in addition to those costs and fines already allowed by statute. These costs typically would be imposed at sentencing. The bill states that it is a curative measure addressing the authority of courts to impose costs under Section 1k of the Code before the issuance of the Michigan Supreme Court opinion in *People v Cunningham*, (No. 147437), issued June 18, 2014. The bill would apply to all fines, costs, and assessments ordered or assessed under Section 1k before June 18, 2014 (the date of the *Cunningham* ruling), and those imposed after the bill's effective date.

Specifically, until 36 months after the bill's effective date, *any cost* reasonably related to the actual costs incurred by the trial court without separately calculating those costs involved in the particular case on a defendant found guilty of a crime, could be imposed in addition to currently authorized costs, fines, and assessments.

Under the bill, the additional costs could include, but would not be limited to, one or more of the following:

- The salaries and benefits for relevant court personnel.
- Goods and services necessary for the operation of the court.
- Necessary expenses for the operation and maintenance of the court buildings and facilities.

Beginning January 1, 2015, the court would have to make available to a defendant information about any fine, cost, or assessment imposed, including information about any cost imposed under the bill. However, the information would not have to include the calculation of the costs involved in a particular case.

If the court imposes any cost under the bill's provisions, the clerk is required to transmit a report, no later than March 31 of each year, to the State Court Administrative Office (SCAO) in a manner prescribed by SCAO containing all of the following information for the previous calendar year:

- The name of the court.
- The total number of cases in which costs under the bill were imposed by that court.
- The total amount of costs imposed by that court under the bill's provisions.

No later than July 1 of each year, SCAO is required to compile all data submitted above during the preceding calendar year and submit a written report to the governor, the Secretary of the Senate, and the Clerk of the House of Representatives. The Secretary of the Senate and Clerk of the House are required to make the report available to the public.

The bill prohibits a defendant from being imprisoned, jailed, or incarcerated for nonpayment of costs ordered under section 1k *unless* the court determines that the defendant has the resources to pay the ordered costs and has not made a good-faith effort to do so.

Court costs, assessments, fines, and reimbursements. A court orders, or imposes, costs, assessments, reimbursements, and fines when a defendant enters a plea of guilty or no contest (*nolo contendere*). If after a trial or hearing the court finds a defendant guilty, the costs, assessments, fines, and reimbursements are ordered at sentencing or at the time entry of judgment of guilt is deferred or delayed under certain statutes.

A court currently *must* impose a minimum state cost (\$68 for a felony, \$50 for a misdemeanor or ordinance violation). In addition, a court currently *may* impose other specifically allowable fines, costs, reimbursements, and assessments as follows:

- Any fine or cost (the bill clarifies that this applies to a cost or fine *authorized by the statute for a violation of which the defendant entered a plea of guilty or nolo contendere or the court determined that the defendant was guilty*).
- The expenses of providing legal assistance to the defendant.
- Any assessment authorized by law.
- Reimbursement under Section 1f of Chapter 9 (Judgment and Sentence). Section 1f allows a defendant to be ordered to reimburse the state or local units of government for expenses incurred related to the incident, such as costs of prosecution or emergency response.

MCL 769.1k

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