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BILL ANALYSIS



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House Bill 5785 (Substitute S-2 as reported)
Sponsor: Representative John Walsh
House Committee: Judiciary
Senate Committee: Judiciary

CONTENT

The bill would amend Chapter IX (Judgment and Sentence) of the Code of Criminal Procedure to authorize a court to impose on a guilty defendant any cost reasonably related to the court's actual costs. The bill also would require courts that imposed those costs to report annually to the State Court Administrative Office, which would have to report annually to the Governor and the Legislature.

Under Section 1k of Chapter IX, if a defendant enters a plea of guilty or no contest or if the court determines after a hearing or trial that the defendant is guilty, at the time of the sentencing or at the time entry of judgment of guilt is deferred or sentencing is delayed pursuant to statute, the court must impose certain minimum State costs. The court also may impose any fine; any cost in addition to the minimum State cost; the expenses of providing legal assistance to the defendant; an assessment authorized by law; and reimbursement of the State or a local unit for expenses incurred in responding to certain violations.

The bill would delete the reference to any cost in addition to the minimum State cost. The bill would allow the court to impose any cost authorized by the statute that the defendant violated. For 36 months after the bill's effective date, the court also could impose any cost reasonably related to actual costs incurred by the trial court, including salaries and benefits for relevant court personnel; goods and services necessary for the operation of the court; and necessary expenses for the operation and maintenance of court buildings and facilities.

Beginning January 1, 2015, the bill would require the court to make available to a defendant information about any fine, cost, or assessment imposed as discussed above, including information about any cost imposed for actual court costs.

A defendant could not be incarcerated for the nonpayment of costs ordered under the bill unless the court determined that the defendant had the resources to pay the ordered costs and had not made a good-faith effort to do so.

The bill specifies that it would apply to all fines, costs, and assessments ordered or assessed beginning June 18, 2014, and that it would be a "curative measure" addressing the courts' authority to impose costs under Section 1k before the issuance of the Supreme Court's opinion in *People v Cunningham* (496 Mich 145).

MCL 769.1k

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Currently, the State appropriates funds to local courts, primarily for judicial salaries and some benefits. Under the bill, there would be no fiscal impact on State government. For local courts, there would be authorization to impose costs on defendants who pleaded guilty, pleaded no contest, or were found guilty. Prior to the *Cunningham* decision, local courts were allowed to collect costs from defendants. The bill specifies categories of charges the courts could impose, including: any fine authorized by statute, any cost authorized by statute, and any cost reasonably related to the court's actual costs. Depending on nature of the local court and the amount of assessed costs that actually were collected by the court before the *Cunningham* decision, there could be no fiscal impact on the courts.

Absent any changes to the sunset provision of 36 months or other changes to local court funding, the reimbursement of reasonable costs to local courts would expire three years after the bill took effect.

Date Completed: 9-26-14

Fiscal Analyst: John Maxwell

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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.