

**SUBSTITUTE FOR
HOUSE BILL NO. 5785**

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 1k of chapter IX (MCL 769.1k), as amended by
2006 PA 655.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER IX

2

Sec. 1k. (1) If a defendant enters a plea of guilty or nolo
contendere or if the court determines after a hearing or trial that
the defendant is guilty, both of the following apply at the time of
the sentencing or at the time entry of judgment of guilt is
deferred pursuant to statute or sentencing is delayed pursuant to
statute:

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(a) The court shall impose the minimum state costs as set
forth in section 1j of this chapter.

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House Bill No. 5785 (H-2) as amended September 17, 2014

(b) The court may impose any or all of the following:

(i) Any 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.**

(ii) Any cost ~~in addition to the minimum state cost set forth in subdivision (a).~~ **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.**

(iii) **[UNTIL 27 MONTHS AFTER THE DATE THE AMENDATORY ACT THAT ADDED SUBSECTION (7) IS ENACTED INTO LAW, ANY] COST REASONABLY RELATED TO THE ACTUAL COSTS [WITHOUT SEPARATELY CALCULATING THOSE COSTS INVOLVED IN THE PARTICULAR CASE,]** INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

(A) SALARIES AND BENEFITS FOR RELEVANT COURT PERSONNEL.

(B) GOODS AND SERVICES NECESSARY FOR THE OPERATION OF THE COURT.

(C) NECESSARY EXPENSES FOR THE OPERATION AND MAINTENANCE OF COURT BUILDINGS AND FACILITIES.

(iv) ~~(iii)~~—The expenses of providing legal assistance to the defendant.

(v) ~~(iv)~~—Any assessment authorized by law.

(vi) ~~(v)~~—Reimbursement under section 1f of this chapter.

(2) In addition to any fine, cost, or assessment imposed under subsection (1), the court may order the defendant to pay any additional costs incurred in compelling the defendant's appearance.

(3) Subsections (1) and (2) apply even if the defendant is placed on probation, probation is revoked, or the defendant is discharged from probation.

(4) The court may require the defendant to pay any fine, cost, or assessment ordered to be paid under this section by wage

1 assignment.

2 (5) The court may provide for the amounts imposed under this
3 section to be collected at any time.

4 (6) Except as otherwise provided by law, the court may apply
5 payments received on behalf of a defendant that exceed the total of
6 any fine, cost, fee, or other assessment imposed in the case to any
7 fine, cost, fee, or assessment that the same defendant owes in any
8 other case.

9 (7) BEGINNING JANUARY 1, 2015, THE COURT SHALL MAKE AVAILABLE
10 TO A DEFENDANT INFORMATION ABOUT ANY FINE, COST, OR ASSESSMENT
11 IMPOSED UNDER SUBSECTION (1), INCLUDING INFORMATION ABOUT ANY COST
12 IMPOSED UNDER SUBSECTION (1) (B) (iii). HOWEVER, THE INFORMATION IS NOT
13 REQUIRED TO INCLUDE THE CALCULATION OF THE COSTS INVOLVED IN A
14 PARTICULAR CASE.

15 (8) IF THE COURT IMPOSES ANY COST UNDER SUBSECTION (1) (B) (iii),
16 NO LATER THAN DECEMBER 31 OF EACH YEAR THE CLERK OF THE COURT SHALL
17 TRANSMIT A WRITTEN REPORT TO THE STATE COURT ADMINISTRATIVE OFFICE
18 IN A MANNER PRESCRIBED BY THE STATE COURT ADMINISTRATIVE OFFICE
19 THAT CONTAINS ALL OF THE FOLLOWING INFORMATION FOR THE PREVIOUS
20 FISCAL YEAR:

21 (A) THE NAME OF THE COURT.

22 (B) THE TOTAL NUMBER OF DEFENDANTS UPON WHOM COSTS UNDER
23 SUBSECTION (1) (B) (iii) WERE IMPOSED BY THAT COURT.

24 (C) THE TOTAL AMOUNT OF COSTS THAT WERE IMPOSED BY THAT COURT
25 UNDER SUBSECTION (1) (B) (iii).

26 (D) THE TOTAL AMOUNT OF COSTS IMPOSED UNDER SUBSECTION
27 (1) (B) (iii) THAT WERE COLLECTED BY THAT COURT.

House Bill No. 5785 (H-2) as amended September 17, 2014

1 (9) NO LATER THAN MARCH 1 OF EACH YEAR, THE STATE COURT
2 ADMINISTRATIVE OFFICE SHALL COMPILE ALL DATA SUBMITTED UNDER
3 SUBSECTION (8) DURING THE PRECEDING FISCAL YEAR AND SUBMIT A
4 WRITTEN REPORT COMPARING COUNTIES IN THIS STATE TO THE GOVERNOR,
5 THE SECRETARY OF THE SENATE, AND THE CLERK OF THE HOUSE OF
6 REPRESENTATIVES. THE REPORT DESCRIBED IN THIS SUBSECTION SHALL BE
7 MADE AVAILABLE TO THE PUBLIC.

[(10) A DEFENDANT SHALL NOT BE IMPRISONED, JAILED, OR INCARCERATED
FOR THE NONPAYMENT OF COSTS ORDERED UNDER THIS SECTION 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.]

8 Enacting section 1. This amendatory act applies to all fines,
9 costs, and assessments ordered or assessed under section 1k of
10 chapter IX of the code of criminal procedure, 1927 PA 175, MCL
11 769.1k, before June 18, 2014, and after the effective date of this
12 amendatory act.

13 Enacting section 2. This amendatory act is a curative measure
14 that addresses the authority of courts to impose costs under
15 section 1k of chapter IX of the code of criminal procedure, 1927 PA
16 175, MCL 769.1k, before the issuance of the supreme court opinion
17 in People v Cunningham, _____ Mich _____ (2014) (No. 147437 released
18 June 18, 2014).