

SENATE 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:

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CHAPTER IX

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:

(a) The court shall impose the minimum state costs as set

1 forth in section 1j of this chapter.

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

3 (i) Any fine **AUTHORIZED BY THE STATUTE FOR A VIOLATION OF WHICH**
 4 **THE DEFENDANT ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE OR THE**
 5 **COURT DETERMINED THAT THE DEFENDANT WAS GUILTY.**

6 (ii) Any cost ~~in addition to the minimum state cost set forth~~
 7 ~~in subdivision (a).~~ **AUTHORIZED BY THE STATUTE FOR A VIOLATION OF**
 8 **WHICH THE DEFENDANT ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE OR**
 9 **THE COURT DETERMINED THAT THE DEFENDANT WAS GUILTY.**

10 (iii) **UNTIL 36 MONTHS AFTER THE DATE THE AMENDATORY ACT THAT**
 11 **ADDED SUBSECTION (7) IS ENACTED INTO LAW, ANY COST REASONABLY**
 12 **RELATED TO THE ACTUAL COSTS INCURRED BY THE TRIAL COURT WITHOUT**
 13 **SEPARATELY CALCULATING THOSE COSTS INVOLVED IN THE PARTICULAR CASE,**
 14 **INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:**

15 (A) **SALARIES AND BENEFITS FOR RELEVANT COURT PERSONNEL.**

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

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

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

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

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

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

27 (3) Subsections (1) and (2) apply even if the defendant is

1 placed on probation, probation is revoked, or the defendant is
2 discharged from probation.

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

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

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

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

19 (8) IF THE COURT IMPOSES ANY COST UNDER SUBSECTION (1) (B) (iii) ,
20 NO LATER THAN MARCH 31 OF EACH YEAR THE CLERK OF THE COURT SHALL
21 TRANSMIT A REPORT TO THE STATE COURT ADMINISTRATIVE OFFICE IN A
22 MANNER PRESCRIBED BY THE STATE COURT ADMINISTRATIVE OFFICE THAT
23 CONTAINS ALL OF THE FOLLOWING INFORMATION FOR THE PREVIOUS CALENDAR
24 YEAR:

25 (A) THE NAME OF THE COURT.

26 (B) THE TOTAL NUMBER OF CASES IN WHICH COSTS UNDER SUBSECTION
27 (1) (B) (iii) WERE IMPOSED BY THAT COURT.

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

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

5 (9) NO LATER THAN JULY 1 OF EACH YEAR, THE STATE COURT
6 ADMINISTRATIVE OFFICE SHALL COMPILE ALL DATA SUBMITTED UNDER
7 SUBSECTION (8) DURING THE PRECEDING CALENDAR YEAR AND SUBMIT A
8 WRITTEN REPORT TO THE GOVERNOR, THE SECRETARY OF THE SENATE, AND
9 THE CLERK OF THE HOUSE OF REPRESENTATIVES. THE REPORT DESCRIBED IN
10 THIS SUBSECTION SHALL BE MADE AVAILABLE TO THE PUBLIC BY THE
11 SECRETARY OF THE SENATE AND THE CLERK OF THE HOUSE OF
12 REPRESENTATIVES.

13 (10) A DEFENDANT SHALL NOT BE IMPRISONED, JAILED, OR
14 INCARCERATED FOR THE NONPAYMENT OF COSTS ORDERED UNDER THIS SECTION
15 UNLESS THE COURT DETERMINES THAT THE DEFENDANT HAS THE RESOURCES TO
16 PAY THE ORDERED COSTS AND HAS NOT MADE A GOOD-FAITH EFFORT TO DO
17 SO.

18 Enacting section 1. This amendatory act applies to all fines,
19 costs, and assessments ordered or assessed under section 1k of
20 chapter IX of the code of criminal procedure, 1927 PA 175, MCL
21 769.1k, before June 18, 2014, and after the effective date of this
22 amendatory act.

23 Enacting section 2. This amendatory act is a curative measure
24 that addresses the authority of courts to impose costs under
25 section 1k of chapter IX of the code of criminal procedure, 1927 PA
26 175, MCL 769.1k, before the issuance of the supreme court opinion
27 in People v Cunningham, _____ Mich _____ (2014) (No. 147437 released

1 June 18, 2014).