

HOUSE BILL No. 5128

October 17, 2017, Introduced by Rep. Lucido and referred to the Committee on Law and Justice.

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 1f of chapter IX (MCL 769.1f), as amended by 2016 PA 236.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1
2
3
4
5
6
7
8
9

CHAPTER IX

Sec. 1f. (1) As part of the sentence for a conviction of any of the following offenses, in addition to any other penalty authorized by law, the court may order the person convicted to reimburse the state or a local unit of government for expenses incurred in relation to that incident including, but not limited to, expenses for an emergency response and expenses for prosecuting the person, as provided in this section:

(a) A violation or attempted violation of section 601d,

1 625(1), (3), (4), (5), (6), or (7), section 625m, or section 626(3)
2 or (4) of the Michigan vehicle code, 1949 PA 300, MCL 257.601d,
3 257.625, 257.625m, and 257.626, or of a local ordinance
4 substantially corresponding to section 601d(1), 625(1), (3), or (6)
5 or section 625m or 626 of the Michigan vehicle code, 1949 PA 300,
6 MCL 257.601d, 257.625, 257.625m, and 257.626.

7 (b) Felonious driving, negligent homicide, manslaughter, or
8 murder, or attempted felonious driving, negligent homicide,
9 manslaughter, or murder, resulting from the operation of a motor
10 vehicle, snowmobile, ORV, aircraft, vessel, or locomotive engine
11 while the person was impaired by or under the influence of
12 intoxicating liquor or a controlled substance, as defined in
13 section 7104 of the public health code, 1978 PA 368, MCL 333.7104,
14 or a combination of intoxicating liquor and a controlled substance,
15 or had an unlawful blood alcohol content.

16 (c) A violation or attempted violation of section 82127 of the
17 natural resources and environmental protection act, 1994 PA 451,
18 MCL 324.82127.

19 (d) A violation or attempted violation of section 81134 or
20 former section 81135 of the natural resources and environmental
21 protection act, 1994 PA 451, MCL 324.81134.

22 (e) A violation or attempted violation of section 185 of the
23 aeronautics code of the state of Michigan, 1945 PA 327, MCL
24 259.185.

25 (f) A violation or attempted violation of section 80176(1),
26 (3), (4), or (5) of the natural resources and environmental
27 protection act, 1994 PA 451, MCL 324.80176, or a local ordinance

1 substantially corresponding to section 80176(1) or (3) of the
2 natural resources and environmental protection act, 1994 PA 451,
3 MCL 324.80176.

4 (g) A violation or attempted violation of section 353 of the
5 railroad code of 1993, 1993 PA 354, MCL 462.353.

6 (h) A violation or attempted violation of section 411a(1),
7 (2), or (4) of the Michigan penal code, 1931 PA 328, MCL 750.411a.

8 (i) A finding of guilt for criminal contempt for a violation
9 of a personal protection order issued under section 2950 or 2950a
10 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950
11 and 600.2950a, or for a violation of a foreign protection order
12 that satisfies the conditions for validity provided in section
13 2950i of the revised judicature act of 1961, 1961 PA 236, MCL
14 600.2950i.

15 (j) A violation or attempted violation of section ~~4(1)~~4 of
16 the public threat alert **SYSTEM** act, MCL 28.674.

17 **(K) A VIOLATION OR ATTEMPTED VIOLATION OF SECTION 145D OF THE**
18 **MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.145D.**

19 (2) The expenses for which reimbursement may be ordered under
20 this section include all of the following:

21 (a) The salaries or wages, including overtime pay, of law
22 enforcement personnel for time spent responding to the incident
23 from which the conviction arose, arresting the person convicted,
24 processing the person after the arrest, preparing reports on the
25 incident, investigating the incident, and collecting and analyzing
26 evidence, including, but not limited to, determining bodily alcohol
27 content and determining the presence of and identifying controlled

1 substances in the blood, breath, or urine.

2 (b) The salaries, wages, or other compensation, including
3 overtime pay, of fire department and emergency medical service
4 personnel, including volunteer fire fighters or volunteer emergency
5 medical service personnel, for time spent in responding to and
6 providing fire fighting, rescue, and emergency medical services in
7 relation to the incident from which the conviction arose.

8 (c) The cost of medical supplies lost or expended by fire
9 department and emergency medical service personnel, including
10 volunteer fire fighters or volunteer emergency medical service
11 personnel, in providing services in relation to the incident from
12 which the conviction arose.

13 (d) The salaries, wages, or other compensation, including, but
14 not limited to, overtime pay of prosecution personnel for time
15 spent investigating and prosecuting the crime or crimes resulting
16 in conviction.

17 (e) The cost of extraditing a person from another state to
18 this state including, but not limited to, all of the following:

19 (i) Transportation costs.

20 (ii) The salaries or wages of law enforcement and prosecution
21 personnel, including overtime pay, for processing the extradition
22 and returning the person to this state.

23 (3) If police, fire department, or emergency medical service
24 personnel from more than 1 unit of government incurred expenses as
25 described in subsection (2), the court may order the person
26 convicted to reimburse each unit of government for the expenses it
27 incurred.

1 (4) The amount ordered to be paid under this section ~~shall~~
2 **MUST** be paid to the clerk of the court, who shall transmit the
3 appropriate amount to the unit or units of government named in the
4 order to receive reimbursement. If not otherwise provided by the
5 court under this subsection, the reimbursement ordered under this
6 section ~~shall~~**MUST** be made immediately. However, the court may
7 require that the person make the reimbursement ordered under this
8 section within a specified period or in specified installments.

9 (5) If the person convicted is placed on probation or paroled,
10 any reimbursement ordered under this section ~~shall~~**MUST** be a
11 condition of that probation or parole. The court may revoke
12 probation and the parole board may revoke parole if the person
13 fails to comply with the order and if the person has not made a
14 ~~good faith~~**GOOD-FAITH** effort to comply with the order. In
15 determining whether to revoke probation or parole, the court or
16 parole board shall consider the person's employment status, earning
17 ability, number of dependents, and financial resources, the
18 willfulness of the person's failure to pay, and any other special
19 circumstances that may have a bearing on the person's ability to
20 pay.

21 (6) An order for reimbursement under this section may be
22 enforced by the prosecuting attorney or the state or local unit of
23 government named in the order to receive the reimbursement in the
24 same manner as a judgment in a civil action.

25 (7) Notwithstanding any other provision of this section, a
26 person shall not be imprisoned, jailed, or incarcerated for a
27 violation of parole or probation, or otherwise, for failure to make

1 a reimbursement as ordered under this section unless the court
2 determines that the person has the resources to pay the ordered
3 reimbursement and has not made a ~~good faith~~**GOOD-FAITH** effort to do
4 so.

5 (8) A local unit of government may elect to be reimbursed for
6 expenses under this section or a local ordinance, or a combination
7 of this section and a local ordinance. This subsection does not
8 allow a local unit of government to be fully reimbursed more than
9 once for any expense incurred by that local unit of government.

10 (9) As part of the sentence for a conviction of any violation
11 or attempted violation of chapter XXXIII, section 327, 327a, 328,
12 or 436, or chapter LXXXIII-A of the Michigan penal code, 1931 PA
13 328, MCL 750.200 to 750.212a, 750.327, 750.327a, 750.328, and
14 750.436, and 750.543a to 750.543z, in addition to any other penalty
15 authorized by law, the court shall order the person convicted to
16 reimburse any government entity for expenses incurred in relation
17 to that incident including, but not limited to, expenses for an
18 emergency response and expenses for prosecuting the person, as
19 provided in subsections (2) to (8). As used in this subsection,
20 "government entity" means this state, a local unit of government,
21 or the United States government.

22 (10) As used in this section:

23 (a) "Aircraft" means that term as defined in section 2 of the
24 aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.2.

25 (b) "Local unit of government" means any of the following:

26 (i) A city, village, township, or county.

27 (ii) A local or intermediate school district.

1 (iii) A public school academy.

2 (iv) A community college.

3 (c) "Motor vehicle" means that term as defined in section 33
4 of the Michigan vehicle code, 1949 PA 300, MCL 257.33.

5 (d) "ORV" means that term as defined in section 81101 of the
6 natural resources and environmental protection act, 1994 PA 451,
7 MCL 324.81101.

8 (e) "Snowmobile" means that term as defined in section 82101
9 of the natural resources and environmental protection act, 1994 PA
10 451, MCL 324.82101.

11 (f) "State" includes a state institution of higher education.

12 (g) "Vessel" means that term as defined in section 80104 of
13 the natural resources and environmental protection act, 1994 PA
14 451, MCL 324.80104.

15 Enacting section 1. This amendatory act takes effect 90 days
16 after the date it is enacted into law.

17 Enacting section 2. This amendatory act does not take effect
18 unless Senate Bill No. _____ or House Bill No. 5129 (request no.
19 04454'17) of the 99th Legislature is enacted into law.