

SENATE BILL No. 1114

October 22, 2014, Introduced by Senators JOHNSON, ANANICH, YOUNG and ANDERSON and referred to the Committee on Judiciary.

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
2012 PA 331, and by adding section 1o to chapter IX.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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 81135 of the natural resources and environmental protection act,
21 1994 PA 451, MCL 324.81134 and 324.81135.

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

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

25 (b) The salaries, wages, or other compensation, including
26 overtime pay, of fire department and emergency medical service
27 personnel, including volunteer fire fighters or volunteer emergency

1 medical service personnel, for time spent in responding to and
2 providing fire fighting, rescue, and emergency medical services in
3 relation to the incident from which the conviction arose.

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

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

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

15 (i) Transportation costs.

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

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

24 (4) The amount ordered to be paid under this section shall be
25 paid to the clerk of the court, who shall transmit the appropriate
26 amount to the unit or units of government named in the order to
27 receive reimbursement. ~~If not otherwise provided by the court under~~

1 ~~this subsection, the~~ **ANY** reimbursement ordered under this section
2 shall be made ~~immediately. However, the court may require that the~~
3 ~~person make the reimbursement ordered under this section within a~~
4 ~~specified period or in specified installments.~~ **IN AMOUNTS AND**
5 **INTERVALS, AND OVER THE TIME PERIOD, AS PROVIDED IN SECTION 1M OF**
6 **THIS CHAPTER.**

7 (5) ~~If~~ **SUBJECT TO SECTION 1M OF THIS CHAPTER, IF** the person
8 convicted is placed on probation or paroled, any reimbursement
9 ordered under this section shall be a condition of that probation
10 or parole. ~~The~~ **AS PROVIDED IN SECTION 10 OF THIS CHAPTER, THE** court
11 may revoke probation and the parole board may revoke parole if the
12 person fails to comply with the order and if the person has not
13 made a good faith effort to comply with the order. ~~In determining~~
14 ~~whether to revoke probation or parole, the court or parole board~~
15 ~~shall consider the person's employment status, earning ability,~~
16 ~~number of dependents, and financial resources, the willfulness of~~
17 ~~the person's failure to pay, and any other special circumstances~~
18 ~~that may have a bearing on the person's ability to pay.~~

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

23 (7) Notwithstanding any other provision of this section, a
24 person shall not be imprisoned, jailed, or incarcerated for a
25 violation of parole or probation, or otherwise, for failure to make
26 a reimbursement as ordered under this section unless the court
27 ~~determines that the person has the resources to pay the ordered~~

~~reimbursement and has not made a good faith effort to do so.~~ **MAKES
THE DETERMINATION REQUIRED UNDER SECTION 10 OF THIS CHAPTER.**

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

(9) ~~As~~ **SUBJECT TO SECTION 1M OF THIS CHAPTER, AS** part of the sentence for a conviction of any violation or attempted violation of chapter XXXIII, section 327, 327a, 328, or 436, or chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.200 to 750.212a, 750.327, 750.327a, 750.328, and 750.436, and 750.543a to 750.543z, in addition to any other penalty authorized by law, the court shall order the person convicted to reimburse any government entity 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 subsections (2) to (8). As used in this subsection, "government entity" means this state, a local unit of government, or the United States government.

(10) As used in this section:

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

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

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

(ii) A local or intermediate school district.

(iii) A public school academy.

1 (iv) A community college.

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

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

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

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

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

14 **SEC. 10. (1) A COURT SHALL NOT ENTER A SENTENCE OR ORDER**
15 **SUBJECTING A DEFENDANT TO IMPRISONMENT, JAIL, OR INCARCERATION FOR**
16 **THE FAILURE TO PAY ANY FINE, COST, FEE, OR ASSESSMENT ORDERED UNDER**
17 **SECTION 1M OF THIS CHAPTER, INCLUDING, BUT NOT LIMITED TO, A**
18 **SENTENCE THAT IS PART OF A DEFERRED JUDGMENT OF GUILT, A DELAYED**
19 **SENTENCE, A SENTENCE FOR CONTEMPT OF COURT, OR A SENTENCE FOR A**
20 **VIOLATION OF AN ORDER OF PROBATION, UNLESS THE COURT FIRST**
21 **DETERMINES THAT THE FAILURE TO PAY WAS WILLFUL AND THAT THE**
22 **DEFENDANT HAD THE ABILITY TO PAY AS ORDERED WITHOUT SUBSTANTIAL**
23 **FINANCIAL HARDSHIP TO THE DEFENDANT OR THE DEFENDANT'S DEPENDENTS.**

24 **(2) IN MAKING THE DETERMINATION REQUIRED UNDER SUBSECTION (1),**
25 **THE COURT SHALL CONSIDER THE FACTORS ENUMERATED IN AND APPLY ANY**
26 **APPLICABLE PRESUMPTIONS UNDER SECTION 1M OF THIS CHAPTER.**

27 **(3) IN LIEU OF ENTERING A SENTENCE OR ORDER AS DESCRIBED IN**

1 SUBSECTION (1), THE COURT MAY ADJUST THE AMOUNT OF ANY FINES,
2 COSTS, FEES, OR ASSESSMENTS OR THE AMOUNT, INTERVALS, AND TIME
3 PERIOD OF ANY INSTALLMENTS ORDERED UNDER SECTION 1M OF THIS
4 CHAPTER, SUBJECT TO SECTION 1N OF THIS CHAPTER.

5 (4) BEFORE ENTERING A SENTENCE OR ORDER AS DESCRIBED IN
6 SUBSECTION (1), THE DEFENDANT MUST BE GIVEN NOTICE OF THE FAILURE
7 TO PAY, THE OPPORTUNITY FOR A HEARING, THE OPPORTUNITY TO PREPARE A
8 DEFENSE, AND THE OPPORTUNITY TO TESTIFY, CALL WITNESSES, AND
9 PRESENT EVIDENCE ON HIS OR HER BEHALF.

10 Enacting section 1. This amendatory act does not take effect
11 unless all of the following bills of the 97th Legislature are
12 enacted into law:

13 (a) Senate Bill No. 1115.

14
15 (b) Senate Bill No. 1113.