



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 1054 (as introduced 9-11-14)
Sponsor: Senator Tom Casperson
Committee: Judiciary

Date Completed: 9-22-14

CONTENT

The bill would amend Chapter IX (Judgment and Sentence) of the Code of Criminal Procedure to authorize a sentencing court to impose on a guilty defendant any reasonable cost including salaries and benefits of court staff, goods and services necessary for court operation, and necessary expenses for the court's operation.

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 the minimum State costs as set forth in Section 1j of Chapter IX (\$68 for a felony and \$50 for a misdemeanor or ordinance violation). The court may also impose any or all of the following:

- 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.
- Reimbursement under Section 1f of Chapter IX (which allows the court to order the reimbursement of the State or a local unit for expenses incurred in responding to certain violations, including emergency response and prosecution expenses).

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 for a violation of which the defendant entered the plea or the court determined the defendant was guilty. The court also could impose any reasonable cost in addition to any other cost authorized under Section 1k, including the following:

- Salaries and benefits for relevant court personnel.
- Goods and services necessary for the operation of the court.
- Necessary expenses for the operation and maintenance of court buildings and facilities.

The bill would require the court to make available to the general public and to a defendant information about any fine, cost, or assessment imposed as discussed above, including an explanation of any cost imposed for salaries and benefits of court personnel, goods and services for the court's operation, and necessary expenses for the operation and maintenance of court buildings and facilities. The explanation would not have to include the calculation of the costs involved in a particular case.

The bill specifies that it would apply to all fines, costs, and assessments ordered or assessed beginning June 18, 2014.

MCL 769.1k

BACKGROUND

On June 18, 2014, in *People v Cunningham*, the Michigan Supreme Court held that Section 1k of Chapter IX of the Code of Criminal Procedure does not give courts "the independent authority to impose costs upon criminal defendants" but "provides courts with the authority to impose only those costs that the Legislature has separately authorized by statute" (496 Mich 145).

The defendant, Cunningham, pleaded guilty in circuit court in Allegan County to obtaining a controlled substance by fraud and was sentenced to imprisonment. In addition, the court ordered him to pay certain assessments and costs, including \$1,000 in court costs. The defendant filed a motion challenging the imposition of those costs, arguing that the amount should be reduced or vacated to reflect actual costs incurred by the circuit court. The circuit court denied the motion, holding that the court costs were permissible.

On appeal, the Court of Appeals remanded the question to the circuit court to establish reasonable cost figures for that particular circuit. Allegan County's circuit court administrator reported that the average cost in the circuit court for a criminal case was \$1,238.48, and the circuit court held that "a reasonable relationship existed between the court costs imposed and the actual court costs incurred in connection with defendant's conviction". The Court of Appeals affirmed the circuit court's order.

In a unanimous opinion, the Supreme Court overruled the circuit court and Court of Appeals. It held that, although Section 1k allows courts to impose any cost in addition to the minimum State cost, when read "reasonably and in context" that section does not give courts the independent authority to impose "any cost", but authorizes courts to impose only those costs that the Legislature has separately authorized by statute.

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 reasonable cost. 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.

Fiscal Analyst: John Maxwell