

EXTEND SUNSET ON COURT IMPOSITION OF COSTS

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House Bill 5488 (H-1) as reported from committee

Sponsor: Rep. Sarah L. Lightner

Committee: Judiciary

Complete to 5-19-20

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 151 of 2020)

BRIEF SUMMARY: House Bill 5488 would amend the Code of Criminal Procedure to extend by two years the ability of trial courts to impose certain costs on criminal defendants.

FISCAL IMPACT: House Bill 5488 would amend section 1k of Chapter IX of the Code of Criminal Procedure to extend the sunset provision on imposing costs related to actual costs incurred by trial courts for court operations. The sunset would be extended for two years, from October 2020 to October 2022. Extending the sunset would allow trial courts to continue to impose costs reasonably related to actual costs incurred by the courts for operation. According to the State Court Administrative Office, in FY 2018, courts imposed \$53.3 million in costs and collected \$44.8 million under section 1k. The bill would have no fiscal impact on the state but would have a fiscal impact on local courts. If the sunset provision were not extended, trial courts would lose this revenue.

THE APPARENT PROBLEM:

2014 PA 352 allowed trial courts to assess additional costs on defendants after conviction of a crime. Under the legislation, for a period of three years, courts could impose fines to help defray costs related to prosecution of a case, such as utilities (e.g., electricity and water) and the salaries and benefits of court employees. The 2017 sunset was extended for another three years by 2017 PA 64 and will expire October 17, 2020. Legislation has been offered to again extend the ability of local courts to assess the additional costs.

THE CONTENT OF THE BILL:

Currently, 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, the court is required to impose the minimum state costs as set forth by statute and is authorized to impose any or all of the following:

- Any fine authorized by the statute for a violation of which the defendant entered a plea of guilty or no contest or the court determined that he or she was guilty.
- Any cost authorized by that statute.
- The expense of providing legal assistance to the defendant.
- Any assessment authorized by law.
- Reimbursement for expenses incurred in responding to certain violations.

- **Until October 17, 2020**, any cost reasonably related to actual costs incurred by the trial court, including salaries and benefits for relevant court personnel, goods and services necessary for the operation of the court, and necessary expenses for the operation and maintenance of court buildings and facilities.

House Bill 5488 would extend the sunset (expiration date) provision on imposing costs related to actual costs incurred by trial courts for court operations. The sunset would be extended for about two years, from October 17, 2020, to October 1, 2022.

MCL 769.1k

ARGUMENTS:

For:

The bill would enable a trial court to continue to impose on criminal defendants, for another two years, costs reasonably related to the actual costs incurred by the court in trying a case. Many agree that funding for local courts is in need of reform to develop a stable funding source. Indeed, 2017 PA 65 created the Trial Court Funding Commission to study the issue and make recommendations. The Commission's final report was released in September 2019.¹ However, the COVID-19 pandemic and resulting efforts to stem the spread of the virus have delayed the opportunity for stakeholders and policymakers to review and debate the Commission's findings and recommendations. Now there simply isn't time for the Commission's report to be vetted and solutions debated before the October 17, 2020, sunset date. Enactment of the bill would provide an additional two years to study the report, conduct public hearings on the issues, and make any necessary statutory changes. Without the extension of the sunset date, local funding units would lose a significant amount of revenue at a time when costs related to the pandemic response will likely result in a decrease of revenue from other sources.

Response:

Although no formal opposition to the sunset extension was raised, many believe the current system presents conflict-of-interest issues, as a judge should be focused solely on the guilt or innocence of a defendant rather than concerned with a revenue source to pay the courthouse's utilities or the salaries of court employees.

Rebuttal:

Originally, House Bill 5488 would have extended the sunset for another three years. The bill represents a compromise, and an acknowledgement that, although a serious reform is needed for how trial courts are funded, time is also needed for economic recovery at the state and local levels. A two-year extension would allow cash-strapped courts to continue to assess certain costs on defendants yet provide a workable time frame for policymakers to develop a better, and sustainable, funding system for local courts.

¹Trial Court Funding Commission Final Report:
https://www.michigan.gov/documents/treasury/TCFC_Final_Report_9-6-2019_665923_7.pdf

POSITIONS:

A representative of the Trial Court Funding Commission testified in support of the bill.
(5-6-20)

The following entities indicated support for the bill:

- City of Hazel Park (5-12-20)
- Prosecuting Attorneys Association of Michigan (5-6-20)
- Michigan Association of Counties (5-6-20)
- Monroe County Finance Department (5-6-20)
- Michigan Municipal League (5-6-20)

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Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.