

Legislative Analysis



EXTEND SUNSET ON COURT IMPOSITION OF COSTS

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House Bill 5392 as introduced
Sponsor: Rep. Sarah L. Lightner
1st Committee: Criminal Justice
2nd Committee: Judiciary
Complete to 3-5-24

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

SUMMARY:

House Bill 5392 would amend the Code of Criminal Procedure to extend the ability of trial courts to impose certain costs on criminal defendants.

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 the defendant was guilty.
- Any cost authorized by that statute.
- The expenses of providing legal assistance to the defendant.
- Any assessment authorized by law.
- Reimbursement for expenses incurred in responding to certain violations.
- **Until May 1, 2024**, any cost reasonably related to the actual costs incurred by the trial court, including salaries and benefits for relevant court personnel, goods and services necessary for operation of the court, and necessary expenses for operation and maintenance of court buildings and facilities.

The bill would extend the sunset provision (expiration date) on imposing costs related to actual costs incurred by trial courts for court operations. The sunset would be extended for two years, from May 1, 2024, to May 1, 2026.

MCL 769.1k

FISCAL IMPACT:

House Bill 5392 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 May 1, 2024, to May 1, 2026. Extending the sunset would allow trial courts to continue to impose costs reasonably related to actual costs incurred by the courts for operation.

The bill would have no fiscal impact on the state but would have a fiscal impact on local courts. Without extension of the sunset provision, trial courts would lose a significant amount of revenue. Below is a table that shows the amount of costs imposed and amount of revenue collected for the last seven fiscal years, according to reports submitted by the State Court

Administrative Office. It is worth noting the fluctuation in amounts over the years. Much of the fluctuation since 2019 can be attributed to the COVID-19 pandemic.

<u>Fiscal Year</u>	<u>Costs Imposed</u>	<u>Revenue Collected</u>
2016	\$56.3 million	\$38.0 million
2017	\$58.0 million	\$39.3 million
2018	\$54.9 million	\$39.6 million
2019	\$49.3 million	\$40.9 million
2020	\$31.1 million	\$27.4 million
2021	\$38.0 million	\$29.3 million
2022	\$36.5 million	\$25.8 million

Fiscal Analyst: Robin R. 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.

HOUSE BILL NO. 5392

January 10, 2024, Introduced by Rep. Lightner and referred to the Committee on Criminal Justice.

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
2022 PA 199.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 CHAPTER IX
- 2 Sec. 1k. (1) If a defendant enters a plea of guilty or nolo
- 3 contendere or if the court determines after a hearing or trial that
- 4 the defendant is guilty, both of the following apply at the time of
- 5 the sentencing or at the time entry of judgment of guilt is

1 deferred by statute or sentencing is delayed by statute:

2 (a) The court shall impose the minimum state costs as set
3 forth in section 1j of this chapter.

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

5 (i) Any fine authorized by the statute for a violation of which
6 the defendant entered a plea of guilty or nolo contendere or the
7 court determined that the defendant was guilty.

8 (ii) Any cost authorized by the statute for a violation of
9 which the defendant entered a plea of guilty or nolo contendere or
10 the court determined that the defendant was guilty.

11 (iii) Until May 1, ~~2024~~, **2026**, any cost reasonably related to
12 the actual costs incurred by the trial court without separately
13 calculating those costs involved in the particular case, including,
14 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) The expenses of providing legal assistance to the
21 defendant.

22 (v) Any assessment authorized by law.

23 (vi) 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
28 placed on probation, probation is revoked, or the defendant is
29 discharged from probation.

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

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

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

11 (7) The court shall make available to a defendant information
12 about any fine, cost, or assessment imposed under subsection (1),
13 including information about any cost imposed under subsection
14 (1)(b)(iii). However, the information is not required to include the
15 calculation of the costs involved in a particular case.

16 (8) If the court imposes any cost under subsection (1)(b)(iii),
17 no later than March 31 of each year the clerk of the court shall
18 transmit a report to the state court administrative office in a
19 manner prescribed by the state court administrative office that
20 contains all of the following information for the previous calendar
21 year:

22 (a) The name of the court.

23 (b) The total number of cases in which costs under subsection
24 (1)(b)(iii) were imposed by that court.

25 (c) The total amount of costs that were imposed by that court
26 under subsection (1)(b)(iii).

27 (d) The total amount of costs imposed under subsection
28 (1)(b)(iii) that were collected by that court.

29 (9) No later than July 1 of each year, the state court

1 administrative office shall compile all data submitted under
2 subsection (8) during the preceding calendar year and submit a
3 written report to the governor, the secretary of the senate, and
4 the clerk of the house of representatives. The report described in
5 this subsection must be made available to the public by the
6 secretary of the senate and the clerk of the house of
7 representatives.

8 (10) A defendant must not be imprisoned, jailed, or
9 incarcerated for the nonpayment of costs ordered under this section
10 unless the court determines that the defendant has the resources to
11 pay the ordered costs and has not made a good-faith effort to do
12 so.