



**House  
Legislative  
Analysis  
Section**

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**IMPOSE COSTS FOR PROSECUTION**

**House Bill 6078 with committee  
amendments  
First Analysis (5-22-02)**

**Sponsor: Rep. Jennifer Faunce  
Committee: Criminal Justice**

***THE APPARENT PROBLEM:***

Under existing Michigan law, a court is required to order a defendant convicted of a crime to make full restitution to his or her victim for loss or destruction of property or for the victim's physical or psychological injuries. Under the Code of Criminal Procedure, a court has the discretion to require a defendant, as part of the sentence for a conviction of certain offenses, to reimburse the state or a local unit of government for expenses incurred in relation to the incident including, but not limited to, expenses for an emergency response and expenses for prosecuting the crime. The anti-terrorism legislation recently signed into law included provisions that require a court to impose costs on a person who violates the Anti-Terrorism Act to reimburse a victim or any governmental agency for its expenses incurred as a result of the violation.

Though not every defendant is ordered to reimburse a municipality for prosecution costs, and not everyone ordered to pay is able to pay the full amount, these provisions do enable local governmental units to recoup some of the funds expended on prosecutions. Since police, prosecutors, judges, probation and parole officers, and court personnel are public officials or public employees, their salaries are paid by taxpayers, as are the expenses to maintain courtrooms and courthouses. In addition, adjudication costs also include filing fees and the costs to produce and copy needed documents, dispositions, police investigations, and so on. A single trial can easily run into the tens or hundreds of thousands of dollars; if a case is appealed, it can run into the millions.

Given the current economic climate in the state and the nation, it is difficult for some to see an ever increasing amount of money go to finance the prosecution of those who violate state and local laws. Some feel that if the law were expanded to allow the courts to impose costs for prosecution for any criminal conviction, that an additional deterrent could

be established and state and local governments could recoup some of their expenses.

***THE CONTENT OF THE BILL:***

The bill would amend Chapter IX, entitled "Judgment and Sentence", of the Code of Criminal Procedure to allow a court to order the defendant to pay the costs of prosecution. These costs would be part of the sentence for a conviction of any criminal offense.

The bill would take effect January 1, 2003.

MCL 769.5a

***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, the bill would have an indeterminate fiscal impact on the state and local units of government, depending on the amount of costs paid, and any effect on payment of other fees and assessments according to the order of priority set forth under MCL 775.22. (5-17-02)

***ARGUMENTS:***

***For:***

It is already an accepted practice under current law to allow courts to require a person convicted of certain crimes to reimburse the state or a local unit of government for expenses incurred in prosecuting the crime. The bill would expand this practice to cover any criminal offense. The bill would not require a court to impose prosecution costs on all crimes, but, for a crime that does not already allow or require reimbursement to be made, would allow a court to decide on a case by case basis. This is a good policy decision for several reasons. It could allow the state or local governments the opportunity to recoup at least some of the revenue spent on investigating and prosecuting crimes. This could free up revenue to support life enhancing programs such as community

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service programs, arts programs, youth recreation programs, and so on that would benefit law abiding citizens. It also could deter some people from committing a crime in the first place. Sometimes, a minor fine or limited amount of jail time is not a sufficient deterrent. However, if a person knew that he or she could be required to repay several thousand dollars for the prosecution of a misdemeanor or felony offense, in addition to any fine or jail time allowed by law, then perhaps the person would be persuaded that crime, indeed, does not pay. This could be especially helpful for crimes that tend to be crimes of repetition, such as larceny, breaking and entering, domestic violence offenses, and assaults.

***Against:***

Not everyone can afford to pay back the prosecution costs, and doing so could pose a financial hardship not only on the offender, but also on his or her family. It would seem that this legislation is aimed at being punitive, rather than beneficial in a general sense.

***Response:***

The bill is only granting discretionary authority for a court to impose, as part of a sentence, costs for the prosecution of the offense. All criminal penalties have a measure of punishment built into them; otherwise, a penalty would be no deterrent to stem repeat offenses. This is not overly harsh, but merely holding those who choose to violate laws responsible for their actions. It is not fair to require law-abiding citizens to continue to carry the entire burden for prosecuting criminals. Besides, courts do not impose costs on indigent persons. Therefore, the bill should not be overly cruel in implementation.

***POSITIONS:***

There are no positions on the bill.

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