



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 814 and 815 (as reported without amendment)
Sponsor: Senator Stephanie Chang (S.B. 814)
Senator Sue Shink (S.B. 815)
Committee: Civil Rights, Judiciary, and Public Safety

CONTENT

Senate Bill 814 would enact the "Trial Court Funding Act of 2024" to do the following:

- Require the Supreme Court Administrative Office (SCAO), under the direction and supervision of the Michigan Supreme Court (MSC), to analyze and determine certain costs and revenues of trial courts by May 1, 2026, and report such information to the Legislature.
- Require the SCAO, under the direction and supervision of the MSC, to develop and propose a statewide uniform collection system for court debt.
- Require the SCAO to work together with the Department of Treasury (DoT) to develop and propose a statewide system to distribute court revenue based on its analysis of courts' costs and revenues and develop proposals for funding the court facilities' capital improvement costs.
- Create the Trial Court Fund to receive and distribute court revenue and prescribe funding and expenditure requirements.

Senate Bill 815 would amend Section 1k of Chapter IX (Judgement and Sentence) of the Code of Criminal Procedure to extend, from May 1, 2024, to December 31, 2026, the authority of trial courts to impose actual costs of court operations and facility maintenance on a defendant that is found or pleads guilty.

MCL 769.1k (S.B. 815)

BRIEF RATIONALE

The 2014 *People v. Cunningham* MSC decision determined that State law does not provide courts with the authority to impose costs upon criminal defendants to fund the day-to-day operation of the courts, specifying that only statute can determine these costs.¹ Public Act (PA) 352 of 2014 amended the Code of Criminal Procedure to create an initial extension for court funding. The PA established a sunset for its provisions that has been extended several times. Accordingly, it has been suggested that the sunset be extended again, and in the meantime, trial court costs and revenues be analyzed and presented to the Legislature to determine how to codify trial court funding in the State.

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

Senate Bills 814 and Senate Bill 815 are companion bills to House Bill 5534 and House Bill 5392, respectively.

Legislative Analyst: Eleni Lionas

¹ *People v Cunningham*, 496 Mich 145, 147 (2014).

FISCAL IMPACT

The bills would preserve existing revenue streams for the State and local governments from court cost assessments on criminal defendants for two years while SCAO develops a new court funding model intended for statewide application. The new model, when implemented, would likely have a mixed fiscal impact on local units of government. The cost to SCAO to develop the new model could be absorbed with current appropriation amounts.

The bills would have a negative fiscal impact on the SCAO and would preserve locally distributed revenue for local units of government for two years while SCAO, as per the language of Senate Bill 814, developed legislative proposals for the creation of a new trial court funding model. The negative fiscal impact on the SCAO is related to the data collection, analysis, and proposal development it would undertake as per the language of the bill; the SCAO indicated these costs could be absorbed with current level appropriations.

The constitutionality of Section 1k of Chapter IX of the Code of Criminal Procedure has been challenged via criminal appeals for several decades. The MSC has issued several opinions and statements indicating that a change is necessary. These issues and some of these court cases were discussed in the final report of Trial Court Funding Commission in 2019.² The three main issues to be addressed by a new trial court funding structure are: 1) any real or perceived conflicts of interest between a judge's impartiality and the obligation to use the courts to generate operating revenue; 2) inadequate funding from revenue sources due to excessive dependence on local government funding; and 3) unequal access to justice, due to the variance of court cost assessment statewide.

The long-term solution to trial court funding would likely standardize assessments of court costs for criminal defendants across the State, potentially removing any real or perceived judicial bias and providing equal access to justice. This standardization, once implemented, would have a mixed fiscal impact on local governments. It would likely reduce operating expenditures for courts for some local units, while reducing court-generated revenue for others. Which local units would be affected, and how much, would be determined by the new proposals developed by the SCAO over the next two years.

Senate Bill 814 also would have a minor negative fiscal impact on the State and local government units. This impact would be due to minor administrative costs of these reports. It would have a negative fiscal impact on the DoT. Under the bill, the DoT would have to develop a uniform collections system for court debt and a statewide distribution system for court revenue. This would include operation of a court debt collection pilot program and collaborating with the SCAO on data collection, analysis, and systems design. The magnitude of these costs cannot be determined at this time. The duties described in the bill could require the appropriation of one or more additional full-time equivalents (FTEs) to meet staffing needs. The average annual cost of an FTE is approximately \$137,500.

Date Completed: 4-19-24

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² See Trial Court Funding Commission Final Report, 09/06/19 at: https://www.michigan.gov/-/media/Project/Websites/treasury/Reports/TCFC_Final_Report_962019_9-16-2019.pdf?rev=1fedbe221d224bf5978880216acbb06d
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Bill Analysis @ www.senate.michigan.gov/sfa

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