

1998 PUBLIC AND LOCAL ACTS

[No. 345]

(SB 269)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 760.1 to 776.22) by adding section 1f to chapter IX.

The People of the State of Michigan enact:

CHAPTER IX

769.1f Expenses for which reimbursement may be ordered.

[M.S.A. 28.1073(5)]

Sec. 1f. (1) As part of the sentence for a conviction of any of the following offenses, in addition to any other penalty authorized by law, the court may order the person convicted to reimburse the state or a local unit of government for expenses incurred in relation to that incident including but not limited to expenses for an emergency response and expenses for prosecuting the person, as provided in this section:

(a) A violation of section 625(1), (3), (4), (5), (6), or (7) or section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, or of a local ordinance substantially corresponding to section 625(1), (3), or (6) or section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m.

(b) Felonious driving, negligent homicide, manslaughter, or murder resulting from the operation of a motor vehicle, snowmobile, ORV, aircraft, vessel, or locomotive engine while the person was impaired by or under the influence of intoxicating liquor or a controlled substance, as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104, or a combination of intoxicating liquor and a controlled substance, or had an unlawful blood alcohol content.

(c) A violation of section 82127 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127.

1998 PUBLIC AND LOCAL ACTS

(d) A violation of section 81134 or 81135 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.81135.

(e) A violation of section 185 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.185.

(f) A violation of section 80176(1), (3), (4), or (5) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, or a local ordinance substantially corresponding to section 80176(1) or (3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176.

(g) A violation of section 353 or 355 of the railroad code of 1993, 1993 PA 354, MCL 462.353 and 462.355.

(2) The expenses for which reimbursement may be ordered under this section include all of the following:

(a) The salaries or wages, including overtime pay, of law enforcement personnel for time spent responding to the incident from which the conviction arose, arresting the person convicted, processing the person after the arrest, preparing reports on the incident, investigating the incident, and collecting and analyzing evidence, including, but not limited to, determining bodily alcohol content and determining the presence of and identifying controlled substances in the blood, breath, or urine.

(b) The salaries, wages, or other compensation, including overtime pay, of fire department and emergency medical service personnel, including volunteer fire fighters or volunteer emergency medical service personnel, for time spent in responding to and providing fire fighting, rescue, and emergency medical services in relation to the incident from which the conviction arose.

(c) The cost of medical supplies lost or expended by fire department and emergency medical service personnel, including volunteer fire fighters or volunteer emergency medical service personnel, in providing services in relation to the incident from which the conviction arose.

(3) If police, fire department, or emergency medical service personnel from more than 1 unit of government incurred expenses as described in subsection (2), the court may order the person convicted to reimburse each unit of government for the expenses it incurred.

(4) The amount ordered to be paid under this section shall be paid to the clerk of the court, who shall transmit the appropriate amount to the unit or units of government named in the order to receive reimbursement. If not otherwise provided by the court under this subsection, the reimbursement ordered under this section shall be made immediately. However, the court may require that the person make the reimbursement ordered under this section within a specified period or in specified installments.

(5) If the person convicted is placed on probation or paroled, any reimbursement ordered under this section shall be a condition of that probation or parole. The court may revoke probation and the parole board may revoke parole if the person fails to comply with the order and if the person has not made a good faith effort to comply with the order. In determining whether to revoke probation or parole, the court or parole board shall consider the person's employment status, earning ability, number of dependents, and financial resources, the willfulness of the person's failure to pay, and any other special circumstances that may have a bearing on the person's ability to pay.

(6) An order for reimbursement under this section may be enforced by the prosecuting attorney or the state or local unit of government named in the order to receive the reimbursement in the same manner as a judgment in a civil action.

1998 PUBLIC AND LOCAL ACTS

(7) Notwithstanding any other provision of this section, a person shall not be imprisoned, jailed, or incarcerated for a violation of parole or probation, or otherwise, for failure to make a reimbursement as ordered under this section unless the court determines that the person has the resources to pay the ordered reimbursement and has not made a good faith effort to do so.

(8) A local unit of government may elect to be reimbursed for expenses under this section or a local ordinance, or a combination of this section and a local ordinance. This subsection does not allow a local unit of government to be fully reimbursed more than once for any expense incurred by that local unit of government.

(9) As used in this section:

(a) "Aircraft" means that term as defined in section 4 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.4.

(b) "Local unit of government" means a city, village, township, or county.

(c) "Motor vehicle" means that term as defined in section 33 of the Michigan vehicle code, 1949 PA 300, MCL 257.33.

(d) "ORV" means that term as defined in section 81101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101.

(e) "Snowmobile" means that term as defined in section 82101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82101.

(f) "Vessel" means that term as defined in section 80108 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80108.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 1999.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 89th Legislature are enacted into law:

- (a) Senate Bill No. 268.
- (b) Senate Bill No. 625.
- (c) Senate Bill No. 627.
- (d) Senate Bill No. 869.
- (e) Senate Bill No. 870.
- (f) Senate Bill No. 953.
- (g) House Bill No. 4210.
- (h) House Bill No. 4576.
- (i) House Bill No. 4959.
- (j) House Bill No. 4960.
- (k) House Bill No. 4961.
- (l) House Bill No. 5122.
- (m) House Bill No. 5123.
- (n) House Bill No. 5951.
- (o) House Bill No. 5952.
- (p) House Bill No. 5953.
- (q) House Bill No. 5954.

1998 PUBLIC AND LOCAL ACTS

(r) House Bill No. 5955.

(s) House Bill No. 5956.

Approved October 16, 1998.

Filed with Secretary of State October 16, 1998.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:

Senate Bill No. 268 was filed with the Secretary of State October 16, 1998, and became P.A. 1998, No. 355, Eff. Oct. 1, 1999.
Senate Bill No. 625 was filed with the Secretary of State October 16, 1998, and became P.A. 1998, No. 346, Eff. Oct. 1, 1999.
Senate Bill No. 627 was filed with the Secretary of State October 16, 1998, and became P.A. 1998, No. 347, Eff. Oct. 1, 1999.
Senate Bill No. 869 was filed with the Secretary of State October 16, 1998, and became P.A. 1998, No. 348, Eff. Oct. 1, 1999.
Senate Bill No. 870 was filed with the Secretary of State October 16, 1998, and became P.A. 1998, No. 350, Eff. Oct. 1, 1999.
Senate Bill No. 953 was filed with the Secretary of State October 16, 1998, and became P.A. 1998, No. 351, Eff. Oct. 1, 1999.
House Bill No. 4210 was filed with the Secretary of State October 16, 1998, and became P.A. 1998, No. 340, Eff. Oct. 1, 1999.
House Bill No. 4576 was filed with the Secretary of State October 16, 1998, and became P.A. 1998, No. 357, Eff. Oct. 1, 1999.
House Bill No. 4959 was filed with the Secretary of State October 16, 1998, and became P.A. 1998, No. 349, Eff. Oct. 1, 1999.
House Bill No. 4960 was filed with the Secretary of State October 16, 1998, and became P.A. 1998, No. 359, Eff. Oct. 1, 1999.
House Bill No. 4961 was filed with the Secretary of State October 16, 1998, and became P.A. 1998, No. 358, Eff. Oct. 1, 1999.
House Bill No. 5122 was filed with the Secretary of State October 16, 1998, and became P.A. 1998, No. 342, Eff. Oct. 1, 1999.
House Bill No. 5123 was filed with the Secretary of State October 16, 1998, and became P.A. 1998, No. 341, Eff. Oct. 1, 1999.
House Bill No. 5951 was filed with the Secretary of State October 16, 1998, and became P.A. 1998, No. 356, Eff. Oct. 1, 1999.
House Bill No. 5952 was filed with the Secretary of State October 16, 1998, and became P.A. 1998, No. 343, Eff. Oct. 1, 1999.
House Bill No. 5953 was filed with the Secretary of State October 16, 1998, and became P.A. 1998, No. 344, Eff. Oct. 1, 1999.
House Bill No. 5954 was filed with the Secretary of State October 16, 1998, and became P.A. 1998, No. 352, Eff. Oct. 1, 1999.
House Bill No. 5955 was filed with the Secretary of State October 16, 1998, and became P.A. 1998, No. 353, Eff. Oct. 1, 1999.
House Bill No. 5956 was filed with the Secretary of State October 16, 1998, and became P.A. 1998, No. 354, Eff. Oct. 1, 1999.
