



Michigan Supreme Court

State Court Administrative Office
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Thomas P. Boyd
State Court Administrator

MEMORANDUM

DATE: April 3, 2024

TO: Circuit, District, and Municipal Court Judges
Circuit, District, and Municipal Court Administrators
cc: County Clerks

FROM: Thomas P. Boyd, State Court Administrator

RE: MCL 769.1k(1)(b)(iii) Sunset and Civil Infractions

MCL 769.1k(1)(b)(iii) Sunset

[MCL 769.1k\(1\)\(b\)\(iii\)](#) currently allows courts to impose costs in criminal cases that are reasonably related to the actual costs incurred by the court. **This authority will sunset on May 1, 2024.** [House Bill 5392](#) seeks to extend the sunset to December 31, 2026; however, it is not anticipated that this bill will pass before MCL 769.1k(1)(b)(iii) sunsets on May 1, 2024.

Without MCL 769.1k(1)(b)(iii), courts do not have authority to impose court costs,¹ including, but not limited to, salaries and benefits for 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. Please begin preparing for implementation of this change and discussing potential financial impacts with your funding units.

If MCL 769.1k(1)(b)(iii) sunsets, future State Court Administrative Office (SCAO) financial audits of trial courts will review assessments made after May 1, 2024, to verify courts are not assessing costs without authority.

Civil Infractions

As in criminal cases, court costs may only be assessed as authorized by statute. *Saginaw Public Libraries v Judges of 70th District Court*, 118 Mich App 379, 387 (1982), citing *People v*

¹ See *People v Cunningham*, 496 Mich 145 (2014), holding that courts have authority to impose only those costs that the Legislature has separately authorized by statute.

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Teasdale, 335 Mich 1 (1952). [MCL 257.907](#) provides authority for assessing costs on civil infractions under the Michigan Vehicle Code, and [MCL 600.8727](#) provides authority for assessing costs on municipal civil infractions.

Both MCL 257.907(4) and MCL 600.8727(3) contain nearly verbatim language, allowing courts to impose costs “direct and indirect, to which the *plaintiff* has been put in connection with the civil infraction[.]” (emphasis added). Costs ordered under MCL 257.907(4) must not exceed \$100 and costs ordered under MCL 600.8727(3) must not exceed \$500. Except as otherwise provided by law, costs are payable to the general fund of the plaintiff. Both statutes similarly require a civil fine to be ordered before the court is authorized to order the costs of prosecution.

In interpreting MCL 257.907, the court of appeals concluded that “costs imposed must reasonably relate to the costs of the prosecution of a civil infraction violation and cannot include the costs of the daily operation of the courts or other government units.” *Saginaw Public Libraries*, 118 Mich App at 388.

The SCAO’s previously published [recommended ranges of fines and costs for first-time civil infractions](#) can be used “as a normative guide for judges and district court magistrates and as a basis for public evaluation of disparities in the imposition of civil fines and costs throughout the state.” [MCL 257.907](#)(8). However, this does not obviate each court’s responsibility to impose costs reasonably related to the costs of the prosecution of a civil infraction violation. *Saginaw Public Libraries*, *supra*.

As such, please review your existing practices for processing civil infractions and ensure you are only assessing costs reasonably related to the costs of prosecution—not any costs for operating the court. Courts that assess plaintiff’s costs under these statutes should be able to provide SCAO auditors with documentation as to how these plaintiff’s costs were calculated.

If you have any questions about these items, please contact your [regional administrator](#).