

The Assessment & Distribution of Financial Sanctions in the District Court

- A Financial Primer -



55th Judicial District Court
Mason, MI

November 22, 2012

TABLE OF CONTENTS

Introduction	1
Fine	2
Costs	3
Fee	5
Restitution	7
Collection of Fines, Costs, & Fees	8
Waiver of Financial Assessments	8
Financial Assessment & Distribution – Examples	10

INTRODUCTION

The district courts in the state of Michigan have jurisdiction over misdemeanor offenses, both criminal and traffic, and civil infraction actions. By statute, the district court is authorized to impose financial sanctions for a violation of the law. There are a number of statutes that govern the imposition of financial sanctions, as well as the distribution of monies collected from financial sanctions imposed by the court. Some statutes allow for judicial discretion, whereas others require that the court impose a financial sanction in an amount as set forth in the statute. In addition, there are statutes that allow for the waiver of financial assessments and some statutes that specifically prohibit any such waiver. In some cases, a judge might determine a defendant to be indigent, resulting in a waiver of a financial assessment. There are specific statutes that govern the collection and distribution of monies received by the court for financial sanctions; some are straightforward, whereas others have complex formulas. The number, variation, and manner in which the statutes are written can make it extremely difficult to comprehend how money is assessed, collected and distributed by the district court. This primer is designed to provide the reader with a basic understanding of the assessment and distribution of financial sanctions in the district court.

FINES

Penal Fine (Statute): A penal fine is imposed for the violation of a penal law of this state and a civil fine is imposed for a civil infraction violation of this state.

- 100% of the penal fine is distributed for the support of public libraries - *MCL 397.36*.
- Penal fine (misdemeanor) is discretionary, except for some offenses that have a statutory minimum.
- Traffic penal fine (misdemeanor) is discretionary with a \$100 maximum, unless set forth otherwise by law - *MCL 257.901*.
- Traffic civil fine (civil infractions) is discretionary with \$100 maximum, unless set forth otherwise by law - *MCL 257.907*.
- Traffic civil fine is doubled for a traffic violation in a work zone, emergency scene, or school zone - *MCL 257.601b*.

Ordinance Fine: An ordinance fine is imposed for the violation of a municipality's ordinance.

- 1/3 of the fine is distributed to the political subdivision whose ordinance was violated. Remaining 2/3 of the fine is retained by the court's funding unit - *MCL 600.8379*.
- Ordinance criminal fine (misdemeanor) is discretionary with a \$500 maximum, unless otherwise set forth by law - *MCL 41.183; 46.10b; 66.2; 117.3*.
- Ordinance traffic fine (misdemeanor) is discretionary with \$100 maximum, unless otherwise set forth by law - *MCL 257.901*.
- Ordinance traffic civil fine (civil infractions) is discretionary with \$100 maximum, unless otherwise set forth by law - *MCL 257.907*.
- Ordinance traffic civil fine is doubled for traffic violations in a work zone, emergency scene, or school zone - *MCL 257.601b*.

COSTS

Court Costs: Costs are assessed to offset the expenses specifically incurred in prosecuting a defendant: *See People v Barber*, 14 Mich App 395 (1968), *Saginaw Public Libraries v Judges of the 70th District Court*, 118 Mich App 379 (1982), *People v Teasdale*, 335 Mich 1 (1952)

- Costs may only be assessed if a fine has been ordered - *MCL 257.907; 769.3*.
- All costs for statute violations are distributed to the court's funding unit - *MCL 600.8379*.
- 1/3 of the costs for an ordinance violation is distributed to the political subdivision whose ordinance was violated. The remaining 2/3 of the costs is retained by the court's funding unit - *MCL 600.8379*.
- Costs are discretionary, unless set forth otherwise by statute.
- Costs for traffic civil infractions are discretionary with a \$100 maximum, unless otherwise set forth by statute - *MCL 257.907(4)*.
- Costs for state civil infractions are discretionary with a maximum of \$500 - *MCL 600.8827(3)*.
- Costs for municipal civil infractions are discretionary with a maximum of \$500 - *MCL 600.8727(3)*.

State Costs - Justice System Assessment:

- State cost assessed for a misdemeanor conviction, both statute and ordinance, and all civil infraction judgments – *MCL 769.1k(1)(a)*
- 100% distributed to the state of Michigan
- \$40 Traffic Civil Infraction - *MCL 257.907, MCL 600.8381*
- \$10 Nontraffic Civil Infraction - *MCL 600.8727; MCL 600.8827*
- \$50 Misdemeanor - *MCL 769.1j(1)(b); MCL 600.8381*

Recovery Costs: Local government units are entitled to 100 percent reimbursement for expenses incurred for the following offenses - *MCL 769.1f* .

- Sec 1f(a): OWI - 257.625 (1), (3), (4), (5), (6) & (7)
- Sec 1f(b): Felonious driving, negligent homicide, manslaughter, or murder, or attempted 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
- Sec 1f(c): OWI Snowmobile - 324.82127
- Sec 1f(d): OWI – ORV 324.81134 & 81135
- Sec 1f(e): OWI – Airplane 259.185 Felony
- Sec 1f(f): OWI – Watercraft 324.80176
- Sec 1f(g): OWI – Locomotive 462.353
- Sec 1f(h): False Report of Crime 750.411a

FEES

Fees: A fee is a specific assessment authorized by statute for a specific purpose. Except for a few fees, which are discretionary with the court, the amount of a fee is set by statute.

Drivers License Reinstatement Fee: MCL 257.321a

- Fee to clear license suspended by the court (\$45)
\$15 distributed to Funding Unit; \$30 to the state of Michigan (*\$15 Juror Compensation Fund & \$15 to Secretary of State*)

Conservation Violation Fees:

- DNR Fish and Game (\$10) - *MCL 324.1609*
\$10 distributed to the state of Michigan (Fish and Game Protection Fund)
- Protected Animal/Fish Reimbursement distributed to the state of Michigan (Fish and Game Protection Fund) - *MCL 324.40119; MCL 324.48740*

Crime Victim Rights Fund: MCL 780.905

- State fee of \$75 for a serious misdemeanor or a specified misdemeanor that is resolved by conviction, by delayed sentence, by assignment to youthful trainee status, or by deferred judgment of guilt, is assessed to pay the Crime Victim Rights Assessment. The court may not waive, suspend, or offset the assessment for time served or community service performed.
\$7.50 distributed to Funding Unit; \$67.50 to the state of Michigan (Victim Rights Fund)

Cost to Compel Appearance Fee: Cost to compel appearance is a fee to offset the costs of commanding the appearance of a defendant in court - *MCL 257.729; MCL 600.8735; MCL 600.8835; MCL 769.1k(2)* .

- Fee determined by judicial discretion or court policy
- 100% retained by the court's funding unit
- Assessed prior to, or in addition to, any financial sanction imposed by the court
- Includes civil infraction default fee, show cause fee and bench warrant fee

20% Late Fee: A mandatory 20% late fee is imposed on any misdemeanor or civil infraction case when a defendant has an outstanding balance which has aged 56 days - *MCL 600.4803*.

- 100% retained by the court's funding unit

Court Appointed Counsel Fee: If a defendant is able to pay part of the cost of a lawyer, the court may require contribution to the cost of providing a lawyer and may establish a plan for collecting the contribution - *MCR 6.005(C)*.

RESTITUTION

Restitution: Restitution is ordered to be paid to any person or entity that suffers direct physical or financial harm as a result of a misdemeanor violation - *MCL 769.1a; 780.766; 780.826.*

- 50% of any payment made is be applied to restitution, until such time restitution is paid in full and/or all financial sanctions have been satisfied - *MCL 775.22(2).*
- An order to pay restitution remains in effect for lifetime or until paid in full. An order of restitution may be enforced by the prosecuting attorney, a victim, a victim's estate, or any other person or entity named in the order to receive the restitution in the same manner as a judgment in a civil action or a lien - *MCL 769.1a(13).*

COLLECTION OF FINES AND COSTS

Payment Due at Assessment: MCR 1.110 requires fines, costs, and other financial sanctions imposed by the court to be paid at the time of the assessment, except when the court allows otherwise for good cause shown. When good cause is shown a payment due date is set by the court.

WAIVER OF FINANCIAL ASSESSMENTS

Traffic Citations: Some statutes allow for the waiver of the financial assessment if a traffic citation has been issued, and the violation for which the citation was issued has been corrected and evidence shown to the court - *MCL 257.907; MCL 257.901a*.

- MCL 257.223 Failure to show proof of a valid registration – *MCL 257.907(15)*
- MCL 257.683 Equipment violation - *MCL 257.907(9)*
- 257.710d Child restraint violation - *MCL 257.907(12)*
- 257.311 Fail to display valid license - *MCL 257.901a*
- 257.328 No proof of insurance - *MCL 257.907(16)* Upon proof being shown that the vehicle was insured at the time of the offense, the court may assess a \$25.00 fee which is to be retained by the court's funding unit.

Defendant as Indigent – Prior to the Imposition of Sentence: If a court, prior to sentencing a defendant, determines that the defendant is indigent, the court shall not impose a financial sanction except for the following conditions:

- Crime Victim Rights Assessment (CVRA), if applicable
- State Costs – Justice System Assessment must be assessed if the court imposes an the CVRA and an order of restitution. MCL 769.1j requires a court to assess the mandatory state costs when a person convicted of an offense is ordered to pay any combination of a fine, costs, or applicable assessments. The imposition of the CVRA and restitution constitutes a combination of assessments.

Defendant as Indigent – After the Imposition of Sentence: If a defendant has been sentenced and financial sanctions have been imposed, the court upon finding the defendant indigent, may waive any financial assessment, except for the assessments listed below. The court is not granted the authority to waive the assessments once imposed.

- Crime Victim Rights Assessment
- State Costs – Justice System Assessment (*see note below*)
- Restitution
- Drivers License Reinstatement Fee

NOTE: Under MCL 771.3(6)(b), State Costs can be waived if a defendant was sentenced to probation and financial sanctions imposed.

FINANCIAL ASSESSMENT & DISTRIBUTION – EXAMPLES

1. Defendant admits responsibility to citation issued by the Michigan State Police for Speeding 5 MPH Over - Total Financial Sanction = \$120 (*statute violation*)

<u>Sanction</u>	<u>Amount</u>	<u>Distributed</u>
Fee - Judicial System Assessment	\$40	State of Michigan
Penal Fine	\$15	Library
Costs	\$65	Ingham County

2. Defendant admits responsibility to citation issued by Mason City Police Department for Speeding 5 MPH Over - Total Financial Sanction = \$120 (*ordinance violation*)

<u>Sanction</u>	<u>Amount</u>	<u>Distributed</u>
Fee - Judicial System Assessment	\$40	State of Michigan
Costs	\$80	Ingham County/City of Mason

Cost split between Ingham County \$53.60 (2/3) and City of Mason \$26.40 (1/3)

3. Defendant pleads guilty to Domestic Violence and sentenced to probation for a period of 12 months – Total Financial Sanction - \$1,005 (*statute violation*)

<u>Sanction</u>	<u>Amount</u>	<u>Distributed</u>
Fee - Judicial System Assessment	\$53	State of Michigan
Penal Fine	\$81	Library
Costs	\$376	Ingham County
Crime Victim Rights Assessment	\$75	State of Michigan
Probation Oversight Fee (\$35/mo)	\$420	Ingham County