SENATE BILL No. 57

January 13, 1993, Introduced by Senator WARTNER and referred to the Committee on Judiciary.

A bill to amend chapter IX of Act No. 175 of the Public Acts of 1927, entitled as amended

"The code of criminal procedure,"

as amended, being sections 769.1 to 769.28 of the Michigan Compiled Laws, by adding section 1e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Section 1. Chapter IX of Act No. 175 of the Public Acts of 1927, as amended, being sections 769.1 to 769.28 of the Michigan Compiled Laws, is amended by adding section 1e to read as follows:

CHAPTER IX

SEC. 1E. (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 OF

SENATE BILL No. 57

AN EMERGENCY RESPONSE TO THE INCIDENT FROM WHICH THE CONVICTION AROSE, AND OTHER EXPENSES INCURRED IN RELATION TO THAT INCIDENT AND TO THE PROSECUTION OF THE PERSON, AS PROVIDED IN THIS SECTION:

(A) A VIOLATION OF SECTION 625(1), (3), (4), OR (5) OF THE MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING SECTION 257.625 OF THE MICHIGAN COMPILED LAWS, OR OF A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO SECTION 625(1) OR (3) OF ACT NO. 300 OF THE PUBLIC ACTS OF 1949.

(B) FELONIOUS DRIVING, NEGLIGENT HOMICIDE, OR MANSLAUGHTER, 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, ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTION 333.7104 OF THE MICHIGAN COMPILED LAWS, OR A COMBINATION OF INTOXICATING LIQUOR AND A CONTROLLED SUBSTANCE, OR HAD AN UNLAWFUL BLOOD ALCOHOL CONTENT.

(C) A VIOLATION OF SECTION 15(1)(B) OF ACT NO. 74 OF THE PUBLIC ACTS OF 1968, BEING SECTION 257.1515 OF THE MICHIGAN COMPILED LAWS.

(D) A VIOLATION OF SECTION 20A OR 20B OF ACT NO. 319 OF THE PUBLIC ACTS OF 1975, BEING SECTIONS 257.1620A AND 257.1620B OF THE MICHIGAN COMPILED LAWS.

(E) A VIOLATION OF SECTION 185 OF THE AERONAUTICS CODE OF THE STATE OF MICHIGAN, ACT NO. 327 OF THE PUBLIC ACTS OF 1945, BEING SECTION 259.185 OF THE MICHIGAN COMPILED LAWS.

(F) A VIOLATION OF SECTION 73 OR 73B OF THE MARINE SAFETY ACT, ACT NO. 303 OF THE PUBLIC ACTS OF 1967, BEING SECTIONS 281.1073 AND 281.1073B OF THE MICHIGAN COMPILED LAWS, IF THE PERSON OPERATED, PROPELLED, OR WAS IN PHYSICAL CONTROL OF THE VESSEL.

(G) A VIOLATION OF SECTION 2 OR 3 OF ACT NO. 4 OF THE PUBLIC ACTS OF 1986, BEING SECTIONS 470.202 AND 470.203 OF THE MICHIGAN COMPILED LAWS.

(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 DETERMINING BLOOD ALCOHOL CONTENT AND DETERMINING THE PRESENCE OF AND IDENTIFYING CONTROLLED SUBSTANCES IN THE BLOOD.

(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 TOTAL AMOUNT ORDERED TO BE PAID UNDER THIS SECTION SHALL NOT EXCEED $500.00, UNLESS 1 OR MORE OF THE FOLLOWING CIRCUMSTANCES EXIST:

(A) THE CONVICTION RESULTED FROM THE OPERATION OF AN AIRCRAFT.

(B) THE CONVICTION RESULTED FROM THE OPERATION OF A LOCOMOTIVE ENGINE.

(C) THE INCIDENT FROM WHICH THE CONVICTION AROSE INVOLVED 3 OR MORE MOTOR VEHICLES, SNOWMOBILES, ORV'S, OR VESSELS.

(D) THE INCIDENT FROM WHICH THE CONVICTION AROSE RESULTED IN INJURY TO 3 OR MORE PERSONS, OR DEATH TO 1 OR MORE PERSONS.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) AS USED IN THIS SECTION:

(A) "AIRCRAFT" MEANS THAT TERM AS DEFINED IN SECTION 4 OF ACT NO. 327 OF THE PUBLIC ACTS OF 1945, BEING SECTION 259.4 OF THE MICHIGAN COMPILED LAWS.

(B) "LOCAL UNIT OF GOVERNMENT" MEANS A CITY, VILLAGE, TOWNSHIP, OR COUNTY.

(C) "MOTOR VEHICLE" MEANS THAT TERM AS DEFINED IN SECTION 33 OF ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING SECTION 257.33 OF THE MICHIGAN COMPILED LAWS.

(D) "ORV" MEANS THAT TERM AS DEFINED IN SECTION 1 OF ACT NO. 319 OF THE PUBLIC ACTS OF 1975, BEING SECTION 257.1601 OF THE MICHIGAN COMPILED LAWS.

(E) "VESSEL" MEANS THAT TERM AS DEFINED IN SECTION 6 OF ACT NO. 303 OF THE PUBLIC ACTS OF 1967, BEING SECTION 281.1006 OF THE MICHIGAN COMPILED LAWS.