

Appendix L  
Possible Statutory  
Amendments

**Possible Statutory Amendments:**

Sentence/conditional sentence:

[MCL 769.2](#)

[MCL 769.3](#)

[MCL 769.4](#)

[MCL 769.5](#)

[MCL 801.201 et. seq.](#)

Credit per day for commitment for civil contempt:

[MCL 257.908](#)

[MCL 600.8729](#)

[MCL 600.8829](#)

## **Possible Statutory Amendments:**

### **769.2 Sentence; solitary confinement or hard labor.**

Sec. 2.

Whenever any person shall be lawfully sentenced by any court to imprisonment in the state prison or in any county jail, it shall be competent for the court awarding the sentence, to incorporate therein a provision that the person so sentenced shall be kept in solitary confinement or at hard labor, or both, during the term of such imprisonment, or any specific portion thereof.

### **769.3 Conditional sentence; payment of fine; probation.**

Sec. 3.

(1) If a person is convicted of an offense punishable by a fine or imprisonment **in the state prison or in any county jail**, or both, the court may impose a conditional sentence and order the person to pay a fine, with or without the costs of prosecution, and restitution as provided under section 1a of this chapter or the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, within a limited time stated in the sentence and, in default of payment, sentence the person as provided by law.

(2) Except for a person who is convicted of criminal sexual conduct in the first or third degree, the court may also place the offender on probation with the condition that the offender pay a fine, costs, damages, restitution, or any combination in installments with any limited time and may, upon default in any of those payments, impose sentence as provided by law.

**(3) The court shall consider the person's ability to pay prior to finding a person in default of payment. The court may then sentence the person as provided by law only if the court finds that the person has the ability to pay, but has not paid as ordered. Any term of incarceration for violation of subsection (1) or subsection (2) shall be specified in the order of commitment, and shall not exceed one (1) day for each \$ (AMOUNT TO BE SET BY LEGISLATURE) of the fines and costs. A person committed for violation of subsection one (1) or subsection (2) shall be given credit toward payment for each day of incarceration and each day of detention in default of recognizance before judgment at a rate of \$ (AMOUNT TO BE SET BY LEGISLATURE – SHOULD BE SAME AS ABOVE) per day.**

### **769.4 Conditional sentence; execution.**

Sec. 4.

(1) The person against whom any such conditional sentence shall be awarded, shall be forthwith committed to the custody of an officer in court or to the county jail, to be detained until the sentence be complied with; and if he shall not pay the fine within the time limited, the sheriff shall cause the other part of the sentence to be executed forthwith.

**(a) Execution of the conditional sentence shall not occur until the Court has complied with MCL 769.3(3).**

### **769.5 Alternative or combined penalties; power of court.**

Sec. 5.

(1) Whenever it is provided that an offender shall be punished by imprisonment and a fine, such offender may at the discretion of the court, be sentenced to be punished by such imprisonment without the fine or by such fine without the imprisonment; and whenever it is provided that an offense shall be punished by fine or imprisonment, the court may impose both such fine and

imprisonment in its discretion. If the court shall impose both a fine, costs and imprisonment in any state prison, **jail**, or reformatory the offender shall be detained in said prison, **jail**, or reformatory until said fine and costs are paid, not exceeding however, the additional time expressed in said sentence for the non-payment of the same.

**(a) Prior to any incarceration for non-payment, the court shall consider the offender's ability to pay. If the court finds, on the record, that the offender has the ability to pay, but has not paid as ordered, the term of incarceration ordered by the court may be enforced.**

**(b) Any term of imprisonment shall be specified in the order of commitment, and shall not exceed one (1) day for each \$ (AMOUNT TO BE SET BY LEGISLATURE) of the fines and costs. An offender shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at a rate of \$ (AMOUNT TO BE SET BY LEGISLATURE – SHOULD BE SAME AS ABOVE) per day.**

**801.201 et. seq.**

### **WORK FARMS, FACTORIES, AND SHOPS**

**Act 78 of 1917**

AN ACT to establish and to provide for the conduct and maintenance of work farms, factories or shops in counties of this state and to authorize the confinement of convicted persons therein and to provide for the punishment of such persons for breaking or attempting to break out; and to permit counties not operating work farms, factories or shops to contract for the care of their prisoners with counties operating such farms, factories or shops.

**History:** 1917, Act 78, Imd. Eff. Apr. 17, 1917

### **257.908 Default as civil contempt; penalty.**

Sec. 908.

(1) If a defendant defaults in the payment of a civil fine, costs, or both, or of any installment, as ordered pursuant to section 907(2), the court, upon the motion of the plaintiff or upon its own motion, may require the defendant to show cause why the default should not be treated as in civil contempt and may issue a summons or order to show cause or a bench warrant of arrest for the defendant's appearance.

(2) When a corporation or an association is ordered to pay a civil fine or costs, the persons authorized to make disbursement shall pay the fine or costs, and their failure to do so shall be civil contempt unless they make the showing required in this section.

(3) Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until the civil fine, costs, or both, or a specified part thereof, is paid.

(4) If it appears that the default in the payment of a civil fine or costs does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment, or revoking the fine or costs or the unpaid portion thereof in whole or in part.

(5) The term of imprisonment on civil contempt for nonpayment of a civil fine or costs shall be specified in the order of commitment, and shall not exceed 1 day for each **\$10.00 (Amount consistent with MCL 600.8729 and 600.8829 – As set by the Legislature)** of the fine and costs. A person committed for nonpayment of a civil fine or costs shall be given credit toward

payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of **\$10.00 (Amount consistent with MCL 600.8729 and 600.8829 – As set by the Legislature)** per day.

(6) A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine or costs shall not be discharged from custody until 1 of the following occurs:

- (a) The defendant has been credited with the amount due pursuant to subsection (5).
  - (b) The amount due has actually been collected through execution of process or otherwise.
  - (c) The amount due has been satisfied pursuant to a combination of subdivisions (a) and (b).
- (7) The civil contempt shall be purged upon discharge of the defendant pursuant to subsection (6).

### **600.8729 Payment of fine, costs, assessment, damages, or expenses; default as civil contempt.**

Sec. 8729.

(1) If a defendant defaults in the payment of a civil fine, costs, assessment, or, if applicable, damages or expenses as provided in section 8733(2) if applicable, or any installment, as ordered pursuant to section 8727, the court, upon the motion of the plaintiff or upon its own motion, may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, an order to show cause, or a bench warrant of arrest for the defendant's appearance.

(2) If a corporation or an association is ordered to pay a civil fine, costs, assessment, or damages or expenses, the individuals authorized to make disbursement shall pay the fine, costs, assessment, or damages or expenses, and their failure to do so shall be civil contempt unless they make the showing required in this section.

(3) Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.

(4) If it appears that the default in the payment of a fine, costs, assessment, or damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment, or revoking the fine, costs, assessment, or damages or expenses.

(5) The term of imprisonment on civil contempt for nonpayment of a civil fine, costs, assessment, or damages or expenses shall be specified in the order of commitment and shall not exceed 1 day for each **\$30.00 (Amount consistent with MCL 257.908 and 600.8829 – As set by the Legislature)** due. A person committed for nonpayment of a civil fine, costs, assessment, or damages or expenses shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of **\$30.00 (Amount consistent with MCL 257.908 and 600.8829 – As set by the Legislature)** per day.

(6) A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine, costs, assessment, or damages or expenses shall not be discharged from custody until 1 of the following occurs:

- (a) The defendant is credited with the amount due pursuant to subsection (5).
- (b) The amount due is collected through execution of process or otherwise.
- (c) The amount due is satisfied pursuant to a combination of subdivisions (a) and (b).

(7) The civil contempt shall be purged upon discharge of the defendant pursuant to subsection (6).

**600.8829 Default in payment of fines, costs, assessment, or installment.**

Sec. 8829.

(1) If a defendant defaults in the payment of a civil fine, costs, or assessment or of any installment, as ordered pursuant to section 8827, the court, upon the motion of the plaintiff or upon its own motion, may require the defendant to show cause why the default should not be treated as in civil contempt and may issue a summons, order to show cause, or a bench warrant of arrest for the defendant's appearance.

(2) If a corporation or an association is ordered to pay a civil fine, costs, or assessment, the individuals authorized to make disbursement shall pay the fine or costs, and their failure to do so shall be civil contempt unless they make the showing required in this section.

(3) Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the civil fine, costs, or assessment, or any combination of those amounts, is paid.

(4) If it appears that the default in the payment of a fine, costs, or assessment does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment, or revoking the fine or costs.

(5) The term of imprisonment on civil contempt for nonpayment of a civil fine, costs, or assessment shall be specified in the order of commitment and shall not exceed 1 day for each **\$30.00 (Amount consistent with MCL 257.908 and 600.8729 – As set by the Legislature)** of the fine and costs. A person committed for nonpayment of a civil fine or costs shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of **\$30.00 (Amount consistent with MCL 257.908 and 600.8729 – As set by the Legislature)** per day.

(6) A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine, costs, or assessment shall not be discharged from custody until 1 of the following occurs:

(a) The defendant is credited with the amount due pursuant to subsection (5).

(b) The amount due is collected through execution of process or otherwise.

(c) The amount due is satisfied pursuant to a combination of subdivisions (a) and (b).

(7) The civil contempt shall be purged upon discharge of the defendant pursuant to subsection

(6).