

ORDINANCE NO. 03-1

An Ordinance requiring the payment of costs incurred by the County of Ottawa in prosecuting persons convicted of certain offenses, as authorized by Act 372 of the Public Acts of 2000, as amended, MCLA 769.1f et seq., providing for the manner of collection of such costs, and providing for the effective date of this Ordinance.

THE COUNTY OF OTTAWA, STATE OF MICHIGAN, ORDAINS:

Section 1. PURPOSE: The Board of Commissioners of the County of Ottawa has determined that it is in the best interests of the citizens of Ottawa County to provide for the recovery of costs associated with the prosecution of certain offenses by the Ottawa County Prosecutor's Office, as permitted by Act 372 of the Public Acts of 2000, as amended, MCLA 769.1f et seq.

Section 2. DEFINITIONS: The term "cost of prosecution" shall mean the salaries, wages, or other compensation, including but not limited to, overtime pay of personnel of the Ottawa County Prosecutor's Office for the time spent investigating and prosecuting the crime or crimes resulting in conviction, and the actual costs and expenses incurred by the Ottawa County Prosecutor's Office in the prosecution of a case.

Section 3. LIABILITY FOR COSTS OF PROSECUTION FOR CERTAIN SPECIFIED OFFENSES:

(1) Following conviction of any of the following offenses, the person convicted shall reimburse the County of Ottawa for the expenses of prosecuting that person, as provided in this section:

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

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

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

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

(h) A violation or attempted violation of chapter XXXIII or section 327, 327a, 328, or 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.200 to 750.212a, 750.327, 750.327a, 750.328, and 750.411a.

(i) A finding of guilt for criminal contempt for a violation of a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or for a violation of a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i.

(2) The expenses for which reimbursement may be obtained under this Ordinance include all of the salaries, wages, or other compensation, including but not limited to, overtime pay of prosecution personnel for time spent investigation and prosecuting the crime or crimes resulting in conviction, and the actual costs and expenses incurred by the Ottawa County Prosecutor's Office in the prosecution of a case.

Section 4. IMPOSITION OF COSTS BY COURT: Nothing contained herein shall prohibit or restrict the Ottawa County Circuit Court, the Ottawa County District Court, or the Ottawa County Juvenile Court from imposing the costs of prosecution as part of a sentence following conviction of any of the offenses listed in Section 3, as authorized by MCLA 769.1f(1), provided, however, that the County of Ottawa shall not be fully reimbursed more than once for the expenses incurred in the prosecution of an offense.

Section 5. PROCEDURES FOR DETERMINATION AND RECOVERY OF COSTS:  
The costs of prosecution for the offenses listed in Section 3 shall be determined and recovered in the following manner:

(a) Charge Against Person: The expenses incurred by the County as a result of a prosecution for an offense set forth in Section 3 charged to the person liable for the expenses under the terms of this Ordinance. The charge constitutes a debt of that person and is collectible by the County in the same manner as in the case of an obligation under a contract, expressed or implied.

(b) Cost Recovery Schedule: The Board of Commissioners may, by resolution, adopt a schedule of costs specifying the expenses associated with a prosecution of an offense set forth in Section 3, or may recover actual costs. Any schedule adopted pursuant to this section shall be available to the public from either the Ottawa County Clerk or the Ottawa County Prosecutor or his/her designee. The schedule adopted by the Ottawa County Board of Commissioners may be a flat fee based upon a

study of the average of costs sustained in making a prosecution for the listed offense.

(c) Billing: The Ottawa County Prosecutor, or his/her designee, may, within ten (10) days of receiving itemized costs, or any part thereof, incurred for a prosecution and conviction, submit a bill for the costs by first class mail or personal service to the person liable for the expenses as enumerated under this Ordinance. The bill(s) shall require full payment in thirty (30) days from the date of mailing or personal service.

(d) Failure to Pay; Procedure to Recover Costs: Any failure by the person described in this Ordinance as liable for the expense of a prosecution for an offense listed in Section 3, to pay the bill within thirty (30) days of service shall be considered a default. In case of default, the County of Ottawa may commence a civil suit to recover the expenses and any costs allowed by law, or may contract with a collection agency to recover said expenses and costs in the name of the County of Ottawa.

Section 6. CONFLICT WITH CRIMINAL LAWS; COORDINATION OF COLLECTION EFFORTS:

Nothing in this section shall be construed to conflict, contravene, enlarge or reduce any criminal liability or responsibility, including fines imposed by a judge for any criminal offense under Michigan law. If recovery of the costs of prosecution are required as part of a criminal sentence, the Ottawa County Accounting Department shall work with the relevant court to coordinate recovery of the cost of prosecution.

Section 7. SEVERABILITY: The phrases, sentences, sections and provisions of this Section are severable and the finding that any portion hereof is unconstitutional or otherwise unenforceable shall not detract from or affect the enforceability of the remainder of this Ordinance.

Section 8. REPEAL OF CONFLICTING ORDINANCES: All other Ordinances, parts of Ordinances, or amendments thereto, any of which are in conflict with the provisions of this Ordinance, are hereby repealed in their entirety to the extent of such conflict.

Section 9. This Ordinance was approved and adopted by the Ottawa County Commission  
on January 28, 2003 and shall be effective on January 28 2003.

Date: January 28, 2003

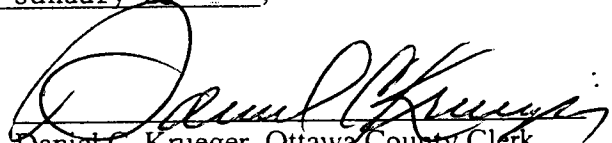


Dennis Swartout, Chairperson  
Ottawa County Board of Commissioners

**CERTIFICATION**

I hereby certify that the above Ordinance No. 03-1 was duly adopted by the Ottawa County  
Board of Commissioners at a regular meeting on January 28, 2003.

Date: January 30, 2003



Daniel C. Krueger, Ottawa County Clerk