

STATE OF MICHIGAN
RE: JOHN DOE / MCL § 750.165

JOHN DOE,
Petitioner/Defendant,
v.
MICHIGAN DEPARTMENT OF
CORRECTIONS; & THE OFFICE OF THE
ATTORNEY GENERAL,
Respondents/Plaintiff.

CASE No.:

**PETITION FOR WRIT OF
HABEAS CORPUS**

CASE No.: XXXX-XXXXXX-FH

TO EACH PARTY AND TO THE ATTORNEY OF RECORD FOR EACH PARTY OF INTEREST IN THIS ACTION:

YOU ARE HEREBY NOTICED THAT PETITIONER, JOHN DOE, Sues out this Petition for Writ of Habeas Corpus to the Court of Appeals, Hall of Justice, 925 W. Ottawa Street, P.O. Box 30022, Lansing, Michigan 48909-7522, on the following Grounds:

GROUND FOR ISSUING THE WRIT

EXCESSIVE BAIL

1. The Eighth Amendment to the United State Constitution provides that; "Excessive bail shall not be required . . ."

2. Does the Eighth Amendment's Excessive Bail clause of the United States Constitution apply to the States via the Fourteenth Amendment?

3. It is in violation of Art. I, §§ 15 & 16 of the Michigan Constitution to charge, hold, prosecute, try, and/or convict Petitioner under MCL § 750.165 when this statute violates our rights to Bail.

4. Art. I, §§ 15 & 16 of the Michigan Constitution states in pertinent part: ". . . All persons shall, before conviction, be bailable by sufficient sureties. . . . §16: Excessive bail shall not be required . . ."

1 5. Money bail is excessive if it is in an amount greater than reasonably necessary to
2 adequately assure that the accused will appear when his presence is required or to assure the
3 protection of the public. *People v. Edmund*, 81 Mich.App 743. The lawful considerations are: 1.
4 the seriousness of the offense; 2. the protection of the public; 3. the previous criminal record;
5 and, 4. the probability of the accused appearing at trial. The bail is to be a sum of money and
6 there is no statutory authority to impose any other conditions on release. *People v. Williams*, 196
7 Mich.App 404.

8 6. Under MCL § 750.165(3) there is no bail available, but rather a pledge of
9 payment of past debt in the form of a bond.

10 7. MCL § 750,165(3) reads in pertinent part:
11 Unless the individual deposits a cash bond of not less than \$500.00 or 25% of the
12 arrearage, whichever is greater, upon arrest for a violation of this section, the
13 individual shall remain in custody until the arraignment. If the individual remains
14 in custody, the court shall address the amount of the cash bond at the arraignment
and at the preliminary examination and, except for good cause shown on the
record, shall order the bond to be continued at not less than \$500.00 or 25% of the
arrearage, whichever is greater.

15 8. Herein bail is disallowed, rather a bond is required against the alleged arrearage
16 (debt), which is in Violation of the United States and Michigan Constitutions.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Petitions Prays this Honorable Court to:

- 19 1. Strike down MCL § 750.165(3) as Unconstitutional Excessive Bail;
20 2. Grant other such Relief the Court deems appropriate and/or necessary for the
21 protection of Petitioner’s Rights under the United States & Michigan Constitutions.
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