

1 not be required . . .”

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

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

11 7. MCL § 750,165(3) reads in pertinent part:

12 Unless the individual deposits a cash bond of not less than \$500.00 or 25% of the
13 arrearage, whichever is greater, upon arrest for a violation of this section, the
14 individual shall remain in custody until the arraignment. If the individual remains in
15 custody, the court shall address the amount of the cash bond at the arraignment and
16 at the preliminary examination and, except for good cause shown on the record, shall
17 order the bond to be continued at not less than \$500.00 or 25% of the arrearage,
18 whichever is greater.

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

21 VIOLATES DUE PROCESS & EQUAL PROTECTION

22 9. The controlling question under this ground for Issuance of the Writ is; whether it is
23 fundamentally unfair to prosecute & maintain a conviction against Petitioner for an alleged
24 violation of MCL § 750.165 when from the very onset of the family law related case, from
25 whence the alleged Order for Support emanated, to the arrest and prosecution, Michigan laws are
26 implemented in Discriminatory fashion against males in the enforcement of stereotypes, the
27 aggrandizement of state employee political careers, and the raking in of Title IV-D Federal
28 Block Grant Funds to the State.

1 10. Petitioner is male.

2 11. The Fourteenth Amendment to the United States Constitution states in pertinent part:
3 “. . . nor shall any State deprive any person of life, liberty, or property, without due process of
4 law; nor deny to any person within its jurisdiction the equal protection of the laws.” Article 1, §
5 17 of the Michigan Constitution states: “No person shall be compelled in any criminal case to be
6 a witness against himself, nor be deprived of life, liberty or property, without due process of
7 law.”

8 12. The U.S. Supreme Court held that “[w]hen government action depriving a person of
9 life, liberty, or property survives substantive due process scrutiny, it must still be implemented in
10 a fair manner.” *United States v Salerno*, 481 US 739, 746; 107 S Ct 2095; 95 L Ed 697 (1987).

11 13. Only a few decades ago our nation was rampant with family law statutes that
12 explicitly expressed the then dominant position of our society that mothers were the natural sole
13 custodian, and that father’s had to be coerced into taking on their allotted singular role of
14 “provider.” Statutes, both State & Federal, were literally titled the “Dead Beat Dad” law(s).

15 14. Those statutes had to be struck down as unconstitutional relics of the past and
16 discriminatory.

17 15. The hearts and minds of humankind are not purified by the striking down of their
18 prejudices that have been institutionalized in statutes and procedures. As a prime example,
19 *Brown v Board of Education* was required nearly 90 years after the civil war settled the rights of
20 African Americans. Though we struck down the “Dead beat Dad” laws, the prejudices and
21 singular dimension stereotypes of “male provider” continue.

22 16. From observation, information & belief, mothers are still routinely awarded sole
23 custody of their children in contested cases at a rate exceeding 10:1; men are regularly denied
24 access to their children without a finding that they are unfit, unwilling, or unable to parent, while
25 this is not so for women (See *In re Troxel*, 530 U.S. 57); these very same men are brought before
26 our courts on show cause hearings and prosecuted under MCL § 750.165 at rates at or exceeding
27 4:1, and receive sentences averaging 1.4 times more than that of women so charged (based upon
28 Michigan Dept. of Corrections statistics).

17. This discrimination is funded, and the State given an incentive, under Title IV-D of the Social Security Act. Under this Act the states receive funding for the rate of support orders, collection of current support, and the collection of arrears. The counties receive an additional incentive from the State for the rate of paternity orders and cost effectiveness per case.

18. The monies that flow to the State under Title IV-D's child support system can and do exceed the expenditures in the majority of the states, thereby representing a profit for the state in creating single parent families. Michigan's excess inflow of IV-D funds resulted in a profit of \$34,000,000.00 in 1996, and \$43,000,000.00 in 1998, a profit of \$77,000,000.00 in two years.

19. The outstanding child support owed by fathers is not an indication that fathers are unfit, unwilling, or unable to parent, but rather, a testament of the continued Discrimination against them and the violation of our children's corresponding right to access to both parents for a profit!

PRAYER FOR RELIEF

WHEREFORE, Petitions Prays this Honorable Court to:

1. Strike down MCL § 750.165(3) as Excessive Bail under the Michigan and U.S. Constitutions;

2. Memorialize as Absolutely Void the Alleged Criminal Conviction for Violation of Petitioner/Defendant's Due Process and Equal Protection Rights;

3. Grant such other Relief as the Court Deems Appropriate and/or Necessary for the protection of Petitioner's Rights under the United States & Michigan Constitutions.