

1 **STATE OF MICHIGAN**

2 **RE: MCL § 750.165**

3  
4 JOHN DOE

5 Petitioner/Defendant,

6 v.

7 MICHIGAN DEPARTMENT OF  
8 CORRECTIONS; & THE OFFICE OF THE  
9 ATTORNEY GENDERAL,

10 Respondents/Plaintiff.  
11 .

CASE No.:

**PETITION FOR WRIT OF  
HABEAS CORPUS**

**CRIMINAL CASE No.: XXX-XXXX-FH;**

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

14 YOU ARE HEREBY NOTICED THAT PETITIONER, JOHN DOE, Sues out this Petition  
15 for Writ of Habeas Corpus to the Court of Appeals, Hall of Justice, 925 W. Ottawa Street, P.O.  
16 Box 30022, Lansing, Michigan 48909-7522; on the Grounds that MCL § 750.165 is:

17 **GROUND FOR ISSUING THE WRIT**

18 **EXCESSIVE BAIL**

19 1. The Eighth Amendment to the United State Constitution provides that; “Excessive  
20 bail shall not be required . . .”

21 2. Does the Eighth Amendment’s Excessive Bail clause of the United States  
22 Constitution apply to the States via the Fourteenth Amendment? The US Supreme Court has not  
23 ruled.

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

27 4. Art. I, §§ 15 & 16 of the Michigan Constitution states in pertinent part: “. . . All  
28 persons shall, before conviction, beailable by sufficient sureties. . . . §16: Excessive bail shall

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 VIOLETES 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).

