

HOUSE BILL No. 5482

February 4, 1992, Introduced by Rep. Perry Bullard and referred to the Committee on Judiciary.

A bill to amend section 1a of chapter IX of Act No. 175 of the Public Acts of 1927, entitled as amended "The code of criminal procedure," as added by Act No. 89 of the Public Acts of 1985, being section 769.1a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 1a of chapter IX of Act No. 175 of the
2 Public Acts of 1927, as added by Act No. 89 of the Public Acts of
3 1985, being section 769.1a of the Michigan Compiled Laws, is
4 amended to read as follows:

5 CHAPTER IX

6 Sec. 1a. (1) In addition to the court's authority to order
7 restitution as part of a sentence pursuant to chapter XI, the
8 judge of a court of competent jurisdiction may order, in addition
9 to or in the place of any other penalty authorized by law, a

1 person convicted of any felony or misdemeanor to make full or
2 partial restitution to the victim of the defendant's course of
3 conduct ~~which~~ THAT gives rise to the conviction or to the
4 victim's estate. If upon the conviction of a felony or a misde-
5 meanor punishable by imprisonment for more than 1 year, the court
6 does not order restitution, or orders only partial restitution,
7 the court shall state on the record the reasons for that action.

8 (2) If a crime results in damage to or loss or destruction
9 of property of a victim of the crime, the order of restitution
10 may require that the defendant do either of the following:

11 (a) Return the property to the owner of the property or to a
12 person designated by the owner.

13 (b) If return of the property under subdivision (a) is
14 impossible, impractical, or inadequate, pay an amount equal to
15 the greater of subparagraphs (i) or (ii), less the value, deter-
16 mined as of the date the property is returned, of that property
17 or any part of the property that is returned:

18 (i) The value of the property on the date of the damage,
19 loss, or destruction.

20 (ii) The value of the property on the date of sentencing.

21 (3) If a crime results in physical or psychological injury
22 to a victim, the order of restitution may require that the
23 defendant do all of the following, as applicable:

24 (a) Pay an amount equal to the cost of actual medical and
25 related professional services and devices relating to physical
26 and psychological care.

1 (b) Pay an amount equal to the cost of actual physical and
2 occupational therapy and rehabilitation.

3 (c) Reimburse the victim or the victim's estate for
4 after-tax income loss suffered by the victim as a result of the
5 crime.

6 (d) Pay an amount equal to the cost of psychological and
7 medical treatment for members of the victim's family ~~which~~ THAT
8 has been incurred as a result of the crime.

9 (4) If a crime resulting in bodily injury also results in
10 the death of a victim, the order of restitution may require that
11 the defendant pay an amount equal to the cost of actual funeral
12 and related services.

13 (5) Instead of restitution under subsections (2) to (4), if
14 the victim or the victim's estate consents, the order of restitu-
15 tion may require that the defendant make restitution in services
16 in lieu of money, or make restitution to a person designated by
17 the victim or the victim's estate, if that person provided serv-
18 ices to the victim as a result of the crime.

19 (6) If the court orders restitution under this section, the
20 court shall, if the victim is deceased, order that the restitu-
21 tion be made to the victim's estate.

22 (7) Any order of restitution shall be as fair as possible to
23 the victim or the victim's estate without unduly complicating or
24 prolonging the sentencing process.

25 (8) The court shall not order restitution with respect to a
26 loss for which the victim or the victim's estate has received or
27 is to receive compensation, including insurance, except that the

1 court may, in the interest of justice, order restitution to the
2 crime victims compensation board or to any person who has compen-
3 sated the victim or the victim's estate for such a loss to the
4 extent that the crime victims compensation board or a person paid
5 the compensation. An order of restitution shall require that all
6 restitution to a victim or a victim's estate under the order be
7 made before any restitution to any other person under that order
8 is made.

9 (9) Any amount paid to a victim or a victim's estate under
10 an order of restitution shall be set off against any amount later
11 recovered as compensatory damages by the victim or the victim's
12 estate in any federal or state civil proceeding and shall reduce
13 the amount payable to a victim or a victim's estate by an award
14 from the crime victims compensation board made after an order of
15 restitution under this section.

16 (10) If not otherwise provided by the court under this sub-
17 section, restitution shall be made immediately. However, the
18 court may require that the defendant make restitution under this
19 section within a specified period or in specified installments.
20 The end of the period or the last installment shall not be later
21 than the following:

22 (a) The end of the period of probation, if probation is
23 ordered pursuant to chapter XI.

24 (b) Two years after the end of imprisonment or discharge
25 from parole, whichever occurs later, if the court does not order
26 probation.

1 (c) Three years after the date of sentencing in any other
2 case.

3 (11) An order of restitution may be enforced by the prose-
4 cuting attorney or a victim or a victim's estate named in the
5 order to receive the restitution in the same manner as a judgment
6 in a civil action.

7 (12) As used in this section and in section 3 of chapter XI,
8 "victim" means an individual who suffers direct or threatened
9 physical, financial, or emotional harm as a result of the commis-
10 sion of a crime OR A SOLE PROPRIETORSHIP, PARTNERSHIP, CORPORA-
11 TION, ASSOCIATION, OR GOVERNMENT ENTITY THAT SUFFERS DIRECT OR
12 THREATENED PHYSICAL OR FINANCIAL HARM AS A RESULT OF THE COMMIS-
13 SION OF A CRIME.

14 Section 2. This amendatory act shall not take effect unless
15 Senate Bill No. _____ or House Bill No. 5481 (request
16 no. 04693'91) of the 86th Legislature is enacted into law.