

Act No. 345
Public Acts of 1993
Approved by the Governor
January 10, 1994
Filed with the Secretary of State
January 10, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Senators Van Regenmorter, Gast, Cisky, Dingell, DeGrow, Dunaskiss, Faust and Kelly

ENROLLED SENATE BILL No. 470

AN ACT to amend the title and sections 1, 3, 4, 5, 6, 7, 8, and 9 of Act No. 196 of the Public Acts of 1989, entitled "An act to create the criminal assessments commission; to prescribe the duties of the commission; to create the crime victim rights fund; to provide for expenditures from the fund; to provide for assessments against criminal defendants; to provide for payment of crime victim rights services; and to prescribe the powers and duties of certain state and local agencies and departments," being sections 780.901, 780.903, 780.904, 780.905, 780.906, 780.907, 780.908, and 780.909 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. The title and sections 1, 3, 4, 5, 6, 7, 8, and 9 of Act No. 196 of the Public Acts of 1989, being sections 780.901, 780.903, 780.904, 780.905, 780.906, 780.907, 780.908, and 780.909 of the Michigan Compiled Laws, are amended to read as follows:

TITLE

An act to create the criminal assessments commission; to prescribe the duties of the commission; to create the crime victim's rights fund; to provide for expenditures from the fund; to provide for assessments against criminal defendants and certain juvenile offenders; to provide for payment of crime victim's rights services; and to prescribe the powers and duties of certain state and local agencies and departments.

Sec. 1. As used in this act:

- (a) "Commission" means the criminal assessments commission created under section 2.
- (b) "Crime victim's rights services" means services required to implement fully the crime victim's rights act, Act No. 87 of the Public Acts of 1985, being sections 780.751 to 780.834 of the Michigan Compiled Laws.
- (c) "Department" means the department of management and budget of this state.
- (d) "Felony" means a violation of a penal law of this state for which the offender, upon conviction, may be punished by imprisonment for more than 1 year, or an offense expressly designated by law to be a felony.
- (e) "Fund" means the crime victim's rights fund created under section 4.
- (f) "Juvenile offense" means an offense committed by an individual under the jurisdiction of the juvenile division of the probate court pursuant to section 2(a)(1) of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.2 of the Michigan Compiled Laws, that if committed by an adult would be a felony, serious misdemeanor, or a specified misdemeanor.

(g) "Serious misdemeanor" means that term as defined in section 61 of Act No. 87 of the Public Acts of 1985, being section 780.811 of the Michigan Compiled Laws.

(h) "Specified misdemeanor" means a violation of any of the following:

(i) Section 602a, 625(1) or (3), 626, or 904 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.602a, 257.625, 257.626, and 257.904 of the Michigan Compiled Laws if the violation is a misdemeanor.

(ii) Section 15(1)(b) of Act No. 74 of the Public Acts of 1968, being section 257.1515 of the Michigan Compiled Laws.

(iii) Section 20a(1) or (2) or 20b of Act No. 319 of the Public Acts of 1975, being sections 257.1620a and 257.1620b of the Michigan Compiled Laws.

(iv) Section 171 of the marine safety act, Act No. 303 of the Public Acts of 1967, being section 281.1171 of the Michigan Compiled Laws.

(v) Section 185 of the aeronautics code of the state of Michigan, Act No. 327 of the Public Acts of 1945, being section 259.185 of the Michigan Compiled Laws.

(vi) Part 74 or section 17766a of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401 to 333.7461 and 333.17766a of the Michigan Compiled Laws, if the violation is a misdemeanor

(vii) Section 33 of the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.33 of the Michigan Compiled Laws.

(viii) Section 2 or 3 of Act No. 4 of the Public Acts of 1986, being sections 470.202 and 470.203 of the Michigan Compiled Laws.

(ix) Section 174, 218, 356, 356d, 359, 362, 362a, 377a, 380, 479a, 535, or 540e of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.174, 750.218, 750.356, 750.356d, 750.359, 750.362, 750.362a, 750.377a, 750.380, 750.479a, 750.535, and 750.540e of the Michigan Compiled Laws, if the violation is a misdemeanor.

Sec. 3. The criminal assessments commission shall do all of the following:

(a) Investigate and determine the amount of revenue needed to pay for crime victim's rights services.

(b) Investigate and determine an appropriate assessment amount to be imposed against convicted criminal defendants and juveniles for whom the probate court enters orders of disposition for juvenile offenses to pay for crime victim's rights services.

(c) By December 31 of each year, report to the governor, the secretary of the senate, the clerk of the house of representatives, and the department the commission's findings and recommendations under this section.

Sec. 4. (1) The crime victim's rights fund is created as a separate fund in the state treasury. The state treasurer shall credit to the fund all amounts received under section 5. The state treasurer shall invest fund money in the same manner as surplus funds are invested under section 143 of Act No. 105 of the Public Acts of 1855, being section 21.143 of the Michigan Compiled Laws. Earnings from the fund shall be credited to the fund.

(2) The fund shall be expended only as provided in this act. Amounts in the fund in excess of the necessary revenue determined by the commission under section 3(a) may be used for crime victims' compensation under Act No. 223 of the Public Acts of 1976, being sections 18.351 to 18.368 of the Michigan Compiled Laws.

Sec. 5. (1) The court shall order each person convicted of a felony to pay an assessment of \$40.00, and each person convicted of a serious misdemeanor or a specified misdemeanor to pay an assessment of \$30.00. The court shall order a defendant to pay only 1 assessment under this subsection per criminal case. Payment of the assessment shall be a condition of a probation order entered under chapter XI of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 771.1 to 771.14a of the Michigan Compiled Laws, or a parole order entered under section 36 of Act No. 232 of the Public Acts of 1953, being section 791.236 of the Michigan Compiled Laws.

(2) The juvenile division of the probate court shall order each juvenile for whom the court enters an order of disposition for a juvenile offense to pay an assessment of \$20.00. The juvenile division of probate court shall order a juvenile to pay only 1 assessment under this subsection per case.

(3) Except as otherwise provided under this act, an assessment under this section shall be used to pay for crime victim's rights services.

(4) If the defendant ordered to pay an assessment posted a cash bond or bail deposit in connection with the case, the court shall order the assessment collected out of that bond or deposit as provided in section 15 of chapter V and section 22 of chapter XV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 765.15 and 775.22 of the Michigan Compiled Laws, or section 6 or 7 of Act No. 257 of the Public Acts of 1966, being sections 780.66 and 780.67 of the Michigan Compiled Laws.

(5) If a person is subject to any combination of fines, costs, restitution, assessments, or payments arising out of the same criminal proceeding, money collected from that person for the payment of fines, costs, restitution, assessments, or

other payments shall be allocated as provided in section 22 of chapter XV of Act No. 175 of the Public Acts of 1927 or section 29 of chapter XIII of Act No. 288 of the Public Acts of 1939, being section 712A.29 of the Michigan Compiled Laws.

(6) The clerk of the court shall do both of the following on the last day of each month:

(a) Transmit 90% of the assessments received under this section to the department of treasury with a written report of those assessments as the department of treasury prescribes. To provide funding for costs incurred pursuant to this section and for providing crime victim's rights services, the court may retain 10% of the assessments received under this section and transmit that amount to the funding unit of the court.

(b) Transmit a written report to the department on a form the department prescribes containing all of the following information for that month:

(i) The name of the court.

(ii) The total number of criminal convictions obtained in that court.

(iii) The total number of defendants against whom an assessment was imposed by that court.

(iv) The total amount of assessments imposed by that court.

(v) The total amount of assessments collected by that court.

(vi) Other information required by the department.

Sec. 6. (1) The department shall establish service and funding levels for the courts, departments, and local agencies that receive funds under this act.

(2) A disbursement to cover the funding level established by the department shall be annually distributed to eligible departments and local agencies.

(3) If the amount retained by the clerk of a court pursuant to section 5(6) is less than the service and funding level for the court established under subsection (1), a disbursement to cover the difference between the amount retained and the funding level established by the department shall be annually distributed to an eligible court.

(4) A department or local agency that provides crime victim's rights services may apply quarterly to the department for an adjustment to the funding level established pursuant to subsection (1). The application shall be on a form provided by the department. The department shall disburse an adjustment to the funding level to an eligible department or local agency.

(5) A court that provides crime victim's rights services may apply annually to the department for compensation for the cost of those services to that court in excess of the greater of the amount retained under section 5(6) or the funding level for the court established pursuant to subsection (1). The application shall be on a form provided by the department.

(6) The department shall compensate units of government for the actual and reasonable administrative costs incurred by those units of government under this act.

Sec. 7. (1) The department shall direct and authorize the state treasurer in writing to disburse money from the fund to pay for crime victim's rights services as required under this act. The department may direct and authorize the state treasurer in writing to disburse money from the fund to pay for crime victims' compensation as provided in section 4(2).

(2) The department shall make the implementation of crime victim's rights a priority, and may develop financial incentive programs to enhance the delivery of crime victim's rights services under this act.

(3) The department shall make disbursements under this act to the treasurer of a unit of government, and the treasurer shall transmit that money to courts, departments, and local agencies within that unit of government as the department directs. The department may withhold a distribution to a unit of government until the treasurer of that unit of government has distributed all previous disbursements made by the department to courts, departments, and local agencies within that unit of government.

(4) The department shall receive disbursements for its administrative costs as authorized by appropriation.

Sec. 8. A court, department, or local agency that receives a distribution under this act shall use that distribution to enhance and increase crime victim's rights services and not to supplant local, federal, and other state funds that, in the absence of a distribution under this act, are available for providing crime victim's rights services or other services to crime victims.

Sec. 9. The department shall annually estimate the cost of providing crime victim's rights services and the estimated revenue to be received by the crime victim's rights fund. If the estimated revenue is projected to be insufficient to cover the estimated costs of totally funding crime victim's rights services, the department shall notify the legislature and determine whether to request an appropriation or budget transfer to cover the estimated shortfall.

Section 2. This amendatory act shall take effect May 1, 1994.

Section 3. This amendatory act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law:

- (a) Senate Bill No. 137.
- (b) Senate Bill No. 138.
- (c) Senate Bill No. 139.
- (d) Senate Bill No. 469.
- (e) Senate Bill No. 472.
- (f) Senate Bill No. 473.

This act is ordered to take immediate effect.

Secretary of the Senate.

Co-Clerk of the House of Representatives.

Approved -----

Governor.