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TERRORISM: REIMBURSEMENT OF VICTIMS AND MUNICIPALITIES

House Bill 5512 (Substitute H-1) First Analysis (1-24-02)

Sponsor: Rep. Gilda Jacobs
Committee: Criminal Justice

THE APPARENT PROBLEM:

The events of September 11, 2001, in which terrorists destroyed the World Trade Center in New York City and damaged the Pentagon, has taken not only an emotional toll on survivors and witnesses, but has resulted in a huge financial toll, also. Survivors have been faced with medical costs and financial hardship due to lost wages. Spouses and dependant children have lost a source of income. Business owners have suffered the loss of offices, equipment, and income that the business would have generated. Municipalities sending rescue teams to the WTC site lost employees and emergency response vehicles, and now some of the same municipalities are expending great sums of money to search for human remains and clear the site of the debris.

Under existing Michigan law, a court is required to order a defendant convicted of a crime to make full restitution to his or her victim. In addition, the court may order the defendant to also reimburse a governmental unit for its expenses related to the incident; for instance, the defendant could be ordered to reimburse a city for ambulance or fire services it provided, and for the expenses incurred by the county or city for prosecuting the crime.

In light of the significant financial toll that terrorist attacks can inflict, legislation has been offered to require a court to order full restitution to be made both to victims and to municipalities for crimes arising from a terrorist act.

THE CONTENT OF THE BILL:

Under provisions of the Code of Criminal Procedure, a court is required, when sentencing a defendant convicted of a felony, misdemeanor, or ordinance violation, to order the defendant to make full restitution to his or her victim for loss or destruction of property or for the victim's physical or psychological injuries. The code also allows a court to require the defendant, as part of the sentence for a conviction of certain offenses, to reimburse the state

or a local unit of government for expenses incurred in relation to the incident including, but not limited to, expenses for an emergency response and expenses for prosecuting the crime.

House Bill 5512 would amend the Michigan Penal Code by adding to Chapter LXXXIII-A, entitled "Michigan Anti-terrorism Act" (which would be created by Senate Bill 930). The bill would require a court to impose costs on a person who violated the Anti-terrorism Act to reimburse a victim or any governmental agency for its expenses incurred as a result of the violation as provided in the Code of Criminal Procedure (MCL 769.1a and MCL769.1f, respectively).

"Governmental agency" would mean any agency of Michigan, a local unit of government, or the federal government. "Victim" would mean that term as defined in the Code of Criminal Procedure (MCL 769.1a). ("Victim" is defined in the Code of Criminal Procedure as "an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a felony, misdemeanor, or ordinance violation.")

The bill could not take effect unless Senate Bill 930 were also enacted into law.

MCL 750.543j

BACKGROUND INFORMATION:

Following the events of September 11, 2001, the leadership of both caucuses of the state House of Representatives and the Senate, the governor, the attorney general, the Emergency Management Division of the Department of State Police, and various other state departments began meeting to address the issue of terrorism, evaluate the state's disaster preparedness policies, and identify areas that needed reform. In addition, the attorney general began a review of the state's criminal statutes and

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their ability to deal with the threat of terrorist activities within the state. The multi-bill package on terrorism is a bi-partisan, bi-cameral initiative to address the concerns identified in those meetings.

The Prosecuting Attorneys Association of Michigan supports the concept of the bills. (1-22-02)

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would result in an indeterminate increase in revenue to the state and local governmental units. To the extent that reimbursements were ordered to be paid to governmental units, the bill could increase revenues for affected units of government. (1-23-02)

ARGUMENTS:

For:

Though current state law requires a court to order a defendant convicted of a crime to make full restitution to any victims, a court has the discretion to order reimbursement to municipalities for any costs incurred in relation to the crime, such as prosecution costs and expenses related to the use of emergency services. The bill would make restitution to victims and reimbursements to municipalities mandatory for conviction of a terrorist act. Unlike a crime committed by a single individual or a small group of like-minded individuals, a terrorist act is generally committed by persons who are a part of a much larger and often well-funded organization. Even if the actual perpetrator were killed in the commission of the crime, the change in the law, along with the changes contained in House Bill 5513 (which would trigger the legal seizure and forfeiture of assets in relation to crimes of terrorism), could mean that assets belonging to terrorist organizations could be seized and utilized to pay for the destruction caused by their members. Of course, no amount of money could ever replace the lives lost or undo the injuries to persons harmed by a terrorist act. But, seizing the assets of terrorist organizations or requiring monetary restitution and reimbursement to be made could deplete their resources – resources that may otherwise be used to fund additional terrorist acts.

POSITIONS:

The office of the attorney general supports the bills. (1-23-02)

The office of the governor supports the concept of the bills. (1-22-02)

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.