

SENATE BILL No. 442

May 1, 2003, Introduced by Senators GARCIA and CROPSEY and referred to the Committee on Appropriations.

A bill to amend 1985 PA 87, entitled
"Crime victim's rights act,"
by amending sections 16a, 44a, and 81 (MCL 780.766a, 780.794a,
and 780.831), sections 16a and 44a as added by 2000 PA 503 and
section 81 as amended by 1996 PA 562.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16a. (1) If a person is subject to any combination of
2 fines, costs, restitution, assessments, probation or parole
3 supervision fees, or other payments arising out of the same
4 criminal proceeding, money collected from that person for the
5 payment of fines, costs, restitution, assessments, probation or
6 parole supervision fees, or other payments shall be allocated as
7 provided in this section.

8 (2) Except as otherwise provided in this subsection, if a
9 person is subject to payment of victim payments and any

1 combination of other fines, costs, assessments, probation or
2 parole supervision fees, or other payments, 50% of each payment
3 collected by the court from that person shall be applied to
4 payment of victim payments, and the balance shall be applied to
5 payment of fines, costs, supervision fees, and other assessments
6 or payments. If any fines, costs, supervision fees, or other
7 assessments or payments remain unpaid after all of the victim
8 payments have been paid, any additional money collected shall be
9 applied to payment of those fines, costs, supervision fees, or
10 other assessments or payments. If any victim payments remain
11 unpaid after all of the fines, costs, supervision fees, or other
12 assessments or payments have been paid, any additional money
13 collected shall be applied toward payment of those victim
14 payments.

15 (3) In cases involving prosecutions for violations of state
16 law, money allocated under subsection (2) for payment of fines,
17 costs, probation and parole supervision fees, and assessments or
18 payments other than victim payments shall be applied in the
19 following order of priority:

20 (a) **Payment of the minimum state cost prescribed by section**
21 **1j of chapter IX of the code of criminal procedure, 1927 PA 175,**
22 **MCL 769.1j.**

23 (b) ~~—(a)—~~ Payment of costs.

24 (c) ~~—(b)—~~ Payment of fines.

25 (d) ~~—(c)—~~ Payment of probation or parole supervision fees.

26 (e) ~~—(d)—~~ Payment of assessments and other payments,
27 including reimbursement to third parties who reimbursed a victim

1 for his or her loss.

2 (4) In cases involving prosecutions for violations of local
3 ordinances, money allocated under subsection (2) for payment of
4 fines, costs, and assessments or payments other than victim
5 payments shall be applied in the following order of priority:

6 (a) **Payment of the minimum state cost prescribed by section**
7 **1j of chapter IX of the code of criminal procedure, 1927 PA 175,**
8 **MCL 769.1j.**

9 (b) ~~—(a)—~~ Payment of fines and costs.

10 (c) ~~—(b)—~~ Payment of assessments and other payments.

11 (5) As used in this section, "victim payment" means
12 restitution ordered to be paid to the victim, to the victim's
13 estate, but not to a person who reimbursed the victim for his or
14 her loss; or an assessment ordered under section 5 of 1989
15 PA 196, MCL 780.905.

16 Sec. 44a. (1) If a juvenile is subject to any combination
17 of fines, costs, restitution, assessments, probation or parole
18 supervision fees, or other payments arising out of the same
19 criminal proceeding, money collected from that juvenile for the
20 payment of fines, costs, restitution, assessments, probation or
21 parole supervision fees, or other payments shall be allocated as
22 provided in this section.

23 (2) Except as otherwise provided in this subsection, if a
24 juvenile is subject to payment of victim payments and any
25 combination of other fines, costs, assessments, probation or
26 parole supervision fees, or other payments, 50% of each payment
27 collected by the court from that juvenile shall be applied to

1 payment of victim payments, and the balance shall be applied to
2 payment of fines, costs, supervision fees, and other assessments
3 or payments. If any fines, costs, supervision fees, or other
4 assessments or payments remain unpaid after all of the victim
5 payments have been paid, any additional money collected shall be
6 applied to payment of those fines, costs, supervision fees, or
7 other assessments or payments. If any victim payments remain
8 unpaid after all of the fines, costs, supervision fees, or other
9 assessments or payments have been paid, any additional money
10 collected shall be applied toward payment of those victim
11 payments.

12 (3) In cases involving prosecutions for violations of state
13 law, money allocated under subsection (2) for payment of fines,
14 costs, probation and parole supervision fees, and assessments or
15 payments other than victim payments shall be applied in the
16 following order of priority:

17 (a) **Payment of the minimum state cost prescribed by section**
18 **1j of chapter IX of the code of criminal procedure, 1927 PA 175,**
19 **MCL 769.1j.**

20 (b) ~~—(a)—~~ Payment of costs.

21 (c) ~~—(b)—~~ Payment of fines.

22 (d) ~~—(c)—~~ Payment of probation or parole supervision fees.

23 (e) ~~—(d)—~~ Payment of assessments and other payments,
24 including reimbursement to third parties who reimbursed a victim
25 for his or her loss.

26 (4) In cases involving prosecutions for violations of local
27 ordinances, money allocated under subsection (2) for payment of

1 fines, costs, and assessments or payments other than victim
2 payments shall be applied in the following order of priority:

3 **(a) Payment of the minimum state cost prescribed by section**
4 **1j of chapter IX of the code of criminal procedure, 1927 PA 175,**
5 **MCL 769.1j.**

6 **(b) ~~—(a)—~~** Payment of fines and costs.

7 **(c) ~~—(b)—~~** Payment of assessments and other payments.

8 (5) As used in this section, "victim payment" means
9 restitution ordered to be paid to the victim, to the victim's
10 estate, but not to a person who reimbursed the victim for his or
11 her loss; or an assessment ordered under section 5 of 1989
12 PA 196, MCL 780.905.

13 Sec. 81. (1) A person convicted of a serious misdemeanor
14 shall not derive any profit from the sale of his or her
15 recollections, thoughts, and feelings with regard to the offense
16 committed by that person until the victim receives any
17 restitution or compensation ordered for him or her against the
18 defendant and expenses of incarceration are recovered as provided
19 in subsection (3) and until the escrow account created under
20 subsection (2) is terminated under subsection (4).

21 (2) Upon the conviction of a defendant for a serious
22 misdemeanor involving a victim, and after notice to any
23 interested party, an attorney for the county in which the
24 conviction occurred or the attorney general may petition the
25 court in which the conviction occurred to order that defendant
26 forfeit all or any part of proceeds received or to be received by
27 the defendant, or the defendant's representatives or assignees,

1 from contracts relating to the depiction of the crime or the
2 defendant's recollections, thoughts, or feelings about the crime,
3 in books, magazines, media entertainment, or live entertainment,
4 as provided in this section. The proceeds shall be held in
5 escrow for a period of not more than 5 years.

6 (3) During the existence of the escrow account, proceeds in
7 the account shall be distributed in the following priority to
8 satisfy the following:

9 (a) **Payment of the minimum state cost prescribed by section**
10 **1j of chapter IX of the code of criminal procedure, 1927 PA 175,**
11 **MCL 769.1j.**

12 (b) ~~-(a)-~~ An order of restitution entered under section 76.

13 (c) ~~-(b)-~~ Any civil judgment in favor of the victim against
14 that defendant.

15 (d) ~~-(c)-~~ Any reimbursement ordered under the prisoner
16 reimbursement to the county act, ~~Act No. 118 of the Public Acts~~
17 ~~of 1984, being sections 801.81 to 801.93 of the Michigan Compiled~~
18 ~~Laws 1984 PA 118, MCL 801.81 to 801.93,~~ or ordered under the
19 state correctional facility reimbursement act, ~~Act No. 253 of~~
20 ~~the Public Acts of 1935, being sections 800.401 to 800.406 of the~~
21 ~~Michigan Compiled Laws 1935 PA 253, MCL 800.401 to 800.406.~~

22 (4) The balance remaining in the escrow account at the end of
23 the escrow period shall be paid to the crime victim's rights
24 assessment fund.

25 Enacting section 1. This amendatory act takes effect
26 October 1, 2003.