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BILL ANALYSIS

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House Bill 4798 (Substitute H-2 as passed by the House)
Sponsor: Representative William Van Regenmorter
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 11-29-05

CONTENT

The bill would amend the crime victim's rights services Act to revise the requirement that convicted people pay a crime victim's rights assessment, by extending the requirement to people whose criminal charges were resolved in a way other than conviction (except acquittal or unconditional dismissal). The bill would take effect January 1, 2006.

Under the Act, the court must order each person convicted of a felony to pay an assessment of \$60 and each person convicted of a serious misdemeanor or a specified misdemeanor to pay an assessment of \$50. The bill instead would require a court to order each person charged with a felony, serious misdemeanor, or specified misdemeanor to pay a crime victim's rights assessment, if the charge were resolved by conviction, by assignment of the defendant to youthful trainee status, by a delayed sentence or deferred entry of judgment of guilt, or in another way that was not an acquittal or unconditional dismissal. The person would have to pay an assessment of \$60 if the offense charged were a felony, and \$50 if the offense were a serious misdemeanor or a specified misdemeanor.

Under the Act, "felony" means a violation of a penal law of this State for which the offender may be punished by imprisonment for more than one year or an offense expressly designated by law to be a felony.

"Serious misdemeanor" means that term as defined in the Crime Victim's Rights Act, i.e., one or more of the following:

- Assault and battery or aggravated assault, including domestic violence and aggravated domestic violence (MCL 750.81 or 750.81a).
- Breaking and entering or illegal entry (MCL 750.115).
- Fourth-degree child abuse (750.136b).
- Enticing a child for immoral purposes (MCL 750.145a).
- Discharge of a firearm intentionally aimed at a person or discharge of an intentionally aimed firearm resulting in injury (MCL 750.234 or 750.235).
- Indecent exposure (MCL 750.335a).
- Leaving the scene of a personal injury accident (MCL 257.617a).
- Operating a vehicle while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful blood alcohol content (BAC), if the violation involves an accident resulting in damage to another individual's property or physical injury or death to another individual (MCL 257.625).

- Selling or furnishing alcohol to a person under 21 years of age, if the violation results in physical injury or death to any individual (MCL 436.1701).
- Stalking (MCL 750.411h).
- Operating a vessel while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful BAC, if the violation involves an accident resulting in damage to another individual's property or physical injury or death to any individual (MCL 324.80176).
- A violation of a local ordinance substantially corresponding to a violation listed above.
- A violation charged as a crime or serious misdemeanor listed above but subsequently reduced to or pleaded to as a misdemeanor.

Pursuant to Public Act 184 of 2005 (House Bill 4588), effective January 1, 2006, "serious misdemeanor" also will include all of the following:

- Contributing to the neglect or delinquency of a minor (MCL 750.145).
- Using the internet or a computer to make a prohibited communication (MCL 750.145d).
- Intentionally aiming a firearm without malice (MCL 750.233).
- Injuring a worker in a work zone (MCL 257.601b(2)).

"Specified misdemeanor" means a misdemeanor violation of any of the following:

- Fleeing and eluding a police or conservation officer (MCL 257.602a or 750.479a).
- Operating a vehicle while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful BAC (MCL 257.625).
- Reckless driving (MCL 257.626).
- Driving with a suspended license or registration certificate (MCL 257.904).
- Operating a snowmobile while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful BAC (MCL 324.82127).
- Operating an off-road vehicle while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful BAC (MCL 324.81134 and 324.81135).
- Operating a vessel while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful BAC (MCL 324.80176).
- Operating an aircraft while under the influence of intoxicating liquor or a controlled substance, with an unlawful BAC, or within eight hours after the consumption of intoxicating liquor or a controlled substance (MCL 259.185).
- Part 74 ("Offenses and Penalties") of the Public Health Code (MCL 333.7401-333.7461).
- Operating a locomotive while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful BAC (MCL 462.353).
- Embezzlement (MCL 750.174).
- False pretenses with intent to defraud (MCL 750.218).
- Larceny (MCL 750.356).
- Second-degree retail fraud (MCL 750.356d).
- Larceny from a vacant dwelling (MCL 750.359).
- Larceny by conversion (MCL 750.362).
- Failure to return a rented vehicle, trailer, or other tangible property (MCL 750.362a).
- Willful and malicious destruction of property (MCL 750.377a and 750.380).
- Buying, receiving, possessing, concealing, or aiding in the concealment of stolen, embezzled, or converted property (MCL 750.535).
- Malicious use of a service provided by a telecommunications service provider (MCL 750.540e).
- A local ordinance substantially corresponding to a violation listed above.

FISCAL IMPACT

This bill would have an indeterminate fiscal impact on State and local revenue. The bill would increase the number of defendants required to pay a crime victim's rights assessment, but there are no data on how many additional defendants the bill would include. The fees would remain \$60 for a felony and \$50 for a serious or specified misdemeanor. Currently, the assessment generates approximately \$8 million per year for the Crime Victims Rights Fund, which receives 90% of the revenue. The remaining 10% is retained by the courts.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.