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BILL ANALYSIS

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House Bill 6455 (as passed by the House)
Sponsor: Representative William Van Regenmorter
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 11-28-06

CONTENT

The bill would amend the Crime Victim's Rights Act to do all of the following:

- Extend victim notification requirements, and information-sharing provisions, to cases involving delayed or deferred judgment or assignment to youthful trainee status.**
- Require that a form for a victim's request to be kept informed of an offender's status be given to the victim when a defendant was sentenced to probation, as well as to prison, jail, hospitalization, or a juvenile facility, and require the form to include the court's address.**
- Require that certain payments be applied to victim payments before being applied to fines, costs, supervision fees, or other assessments.**
- Allow, rather than require, a sheriff or juvenile facility to deduct funds for restitution from money received by an offender.**
- Allow a sheriff to deduct and retain an administrative fee, if it deducted amounts for restitution from money received by an offender.**

The bill would take effect on January 1, 2007.

Scope

Article 1 of the Crime Victim's Rights Act deals with felonies; Article 2 deals with juvenile offenses; and Article 3 deals with serious misdemeanors.

The bill would amend Articles 1, 2, and 3 to specify that the duty of a court, the Department of Corrections (DOC), the Department of Human Services (DHS), a county sheriff, or a prosecuting attorney under those articles and under Article I, Section 24 of the State Constitution to provide a notice to a victim also would apply if the case against the defendant were resolved by assignment of the defendant to trainee status, by a delayed sentence or deferred judgment of guilt, or in another way that was not an acquittal or unconditional dismissal.

In addition, in performing a duty under Article 1, 2, or 3 of the Act or under Article I, Section 24 of the State Constitution, the court, DOC, DHS, county sheriff, or prosecuting attorney could furnish to the victim information or records that otherwise would be closed to public inspection, including information or records regarding proceedings and disposition in a case in which the defendant was granted youthful trainee status under the Holmes Youthful Trainee Act.

(Article I, Section 24 of the State Constitution provides that crime victims have the following rights, as provided by law:

- The right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process.
- The right to timely disposition of the case following arrest of the accused.
- The right to be reasonably protected from the accused throughout the criminal justice process.
- The right to notification of court proceedings.
- The right to attend trial and all other court proceedings the accused has the right to attend.
- The right to confer with the prosecution.
- The right to make a statement to the court at sentencing.
- The right to restitution.
- The right to information about the conviction, sentence, imprisonment, and release of the accused.

Article I, Section 24 also authorizes the Legislature to provide by law for its enforcement and to provide for an assessment against convicted defendants to pay for crime victims' rights.)

Probation

Articles 1, 2, and 3 require a victim to be given a form that he or she may submit in order to receive notices from certain entities, as provided for under the Act. Article 1 requires the prosecutor to give a form when a defendant is sentenced to a term of imprisonment, ordered to be placed in a juvenile facility, or hospitalized in or admitted to a hospital or facility. Under Article 2, the prosecutor or the court must give a form when a juvenile is ordered to be placed in a juvenile facility or sentenced to imprisonment. Article 3 requires the prosecutor to give a form when a defendant is sentenced to imprisonment. Under the bill, each of the forms also would have to be given to the victim when a defendant was sentenced to probation.

In addition, Article 1 requires that the form include the address of the DOC, the sheriff, the DHS, the county juvenile agency, or the hospital or facility, as applicable, to which the form may be sent. The bill also would require that the form include the address of the court. Under Article 2, the form must include the address of the DHS, county juvenile agency, DOC, or sheriff, as applicable, to which the form may be sent. The bill also would require that the form include the address of the court and the prosecuting attorney. Article 3 requires the form to include the address of the sheriff's department to which the form may be sent. The bill would require that the form include the address of the court, prosecuting attorney, or sheriff's department, as applicable, to which the form could be sent.

Victim Payments

Articles 1, 2, and 3 specify the priority for allocating money collected from a person for the payment of fines, costs, restitution, assessments, probation or parole supervision fees, or other payments ordered to be paid pursuant to a criminal or juvenile proceeding. Under the bill, if a person making a payment indicated that it was to be applied to victim payments, or if the payment were received as a result of a wage assignment or from the DOC, sheriff, DHS, or county juvenile agency from deductions of money a prisoner or juvenile received in an amount over \$50 per month, the payment first would have to be applied to victim payments.

Under Article 1, if a defendant who has been sentenced to the DOC or to jail is ordered to pay restitution and the defendant receives more than \$50 in a month, the DOC or the

sheriff, as applicable, must deduct 50% of the amount over \$50 received by the defendant for payment of the restitution. The DOC or sheriff must promptly send the deducted money to the crime victim when it accumulates to an amount over \$100 or when the defendant is paroled, transferred to community programs, released to probation, or discharged on the maximum sentence. Under Article 2, the same requirements apply when a juvenile is sentenced to the DOC or jail. If a juvenile has been placed in a juvenile facility, the DHS or county juvenile agency must deduct the money and send the restitution when the accumulated amount exceeds \$100 or the juvenile is released from the facility. Under Article 3, the sheriff must deduct the money and send it when the amount exceeds \$100 or the defendant is released to probation or discharged on the maximum sentence.

Under the bill, the DOC still would be required to deduct the specified amount but the sheriff and a county juvenile agency or the DHS would be authorized, but not required, to deduct the money. In addition, the bill would allow a sheriff to deduct 5% of the amount over \$50 received by a defendant or juvenile, to be retained by the sheriff as an administrative fee. Also, under the bill, the DOC, sheriff, DHS, or county juvenile agency would have to send the money deducted for restitution to the court or to the crime victim.

The Act requires the DOC, sheriff, DHS, or county juvenile agency, as applicable, to notify the defendant in writing of all deductions and payments. The bill would require the notification to be made to the defendant and the court.

MCL 780.763a et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on local sheriff departments. Under the bill, local departments would be authorized to deduct 5% of the amount over \$50 received by a defendant to help offset administrative costs related to the Act. It is not known at this time the amount that would be subject to the 5% charge or how many departments would elect to levy it.

The Department of Human Services would incur some additional administrative costs for notification services. The county agencies would incur some additional administrative costs as a result of transferring funds for restitution collected from defendants.

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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.