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BILL ANALYSIS



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Senate Bills 535 through 538 (as enrolled)
Sponsor: Senator Tonya Schuitmaker
Senate Committee: Judiciary
House Committee: Judiciary

PUBLIC ACTS 293-296 of 2011

Date Completed: 12-29-11

RATIONALE

Michigan's crime victim's compensation program provides limited financial assistance from the Crime Victim's Rights Fund to innocent people who receive bodily injury from the commission of a crime in the State and who incur otherwise unreimbursable financial losses as a result. Funding for the program comes from assessments imposed on people convicted of felonies, certain misdemeanors, and equivalent juvenile offenses. In 2010, several pieces of legislation increased both the assessment amounts and the need for funding. Public Act 280 of 2010 amended the crime victim's rights services Act to provide for the use of money in the Fund for the establishment and maintenance of a statewide trauma system. Public Act 282 of 2010 amended the crime victim's compensation Act to increase the maximum amount of victim compensation from the Fund in several categories, and allow compensation for crime-scene cleanup costs under certain circumstances. To ensure that the Fund's balance could sustain the increased spending, Public Act 281 of 2010 amended the crime victim's rights services Act to increase the assessments imposed on convicted defendants. Reportedly, some people believed that Public Act 281 also expanded the offenses subject to a crime victim's rights assessment to include all misdemeanors, rather than just serious misdemeanors and specified misdemeanors. Indeed, Public Act 281 deleted reference to serious misdemeanors and specified misdemeanors in the part of the assessment requirement establishing the amount of the assessments. The requirement that the court order the assessments, however,

continues to refer to a serious misdemeanor or a specified misdemeanor. It has been suggested that, in order for the Crime Victim's Rights Fund to cover the increased expenditures authorized by Public Acts 280 and 282, all misdemeanor convictions should trigger a crime victim's rights assessment, and that misdemeanor and ordinance violations should be subject to the same assessment.

CONTENT

Senate Bill 536 amends the crime victim's rights services Act to do the following:

- **Require a sentencing court to order a crime victim's rights assessment for all felonies, misdemeanors, and ordinance violations, rather than just for felonies, serious misdemeanors, and specified misdemeanors.**
- **Delete the Act's definitions of "serious misdemeanor" and "specified misdemeanor".**
- **Revise the definition of "juvenile offense".**

Senate Bill 537 amends the juvenile code to require the juvenile court to do the following:

- **Order a juvenile within the court's jurisdiction to pay certain costs for any misdemeanor or ordinance violation, rather than just for a serious misdemeanor or specified misdemeanor or ordinance violation.**

-- **Order a juvenile to pay the crime victim's rights assessment if the court enters a judgment of conviction for a felony, misdemeanor, or ordinance violation, rather than just for a felony, serious misdemeanor, or specified misdemeanor.**

Senate Bills 535 and 538 amend the Code of Criminal Procedure and the Revised Judicature Act (RJA), respectively, to delete the definitions of "serious misdemeanor" and "specified misdemeanor". The bills also require the same assessment for a misdemeanor and an ordinance violation.

Senate Bill 536 was tie-barred to Senate Bills 535, 537, and 538, which were tie-barred to Senate Bill 536.

The bills will take effect on April 1, 2012.

Senate Bill 536

Under the crime victim's rights services Act, a sentencing court must order a person to pay an assessment of \$130 for a felony or \$75 for a misdemeanor if the person is charged with an offense that is a felony, a serious misdemeanor, or a specified misdemeanor that is resolved by conviction, assignment of the defendant to youthful trainee status, a delayed sentence or deferred entry of judgment of guilt, or in another way that is not an acquittal or unconditional dismissal. Under the bill, the court must order a person charged with a felony, misdemeanor, or ordinance violation that is resolved in such a manner to pay the assessment. The assessment for an ordinance violation will be \$75, the same amount as for a misdemeanor.

The bill deletes the Act's definitions of "serious misdemeanor" and "specified misdemeanor". It also revises the definition of "juvenile offense" to refer to offenses committed by a juvenile that if committed by an adult would be a felony, misdemeanor, or ordinance violation, rather than those that if committed by an adult would be a felony, serious misdemeanor, or specified misdemeanor.

Senate Bill 537

Under the juvenile code, if a juvenile is within the court's jurisdiction for an offense

that would be a crime if committed by an adult, and is ordered to pay any combination of fines, costs, restitution, assessments, or payments arising out of the same juvenile proceeding, the court must order the juvenile to pay costs of at least the following amount, as applicable:

- \$68, if the juvenile is within the court's jurisdiction for a felony.
- \$53, if the juvenile is within the court's jurisdiction for a serious misdemeanor or a specified misdemeanor.
- \$48, if the juvenile is within the court's jurisdiction for any other misdemeanor or for an ordinance violation.

Under the bill, a \$50 assessment will apply to a juvenile within the court's jurisdiction for any misdemeanor or ordinance violation.

The code provides that, if the court enters an order of disposition based on an act that is a juvenile offense, as defined in the crime victim's rights services Act, the court must order the juvenile to pay the assessment provided in that Act.

If the court enters a judgment of conviction under Section 2d of the code for an offense that is a felony, serious misdemeanor, or specified misdemeanor, as those terms are defined in the crime victim's rights services Act, the court must order the juvenile to pay the assessment provided in that Act. The bill refers to an offense that is a felony, misdemeanor, or ordinance violation, rather than one that is a felony, serious misdemeanor, or specified misdemeanor. (Section 2d allows the juvenile court to try a juvenile in the same manner as an adult, for certain violations and under certain conditions, and to enter a juvenile disposition or impose a criminal sentence.)

Senate Bills 535 & 538

Under the Code of Criminal Procedure, if a court orders a person convicted of an offense to pay any combination of a fine, costs, or applicable assessment, the court must order the person to pay costs of at least the following amount, as applicable:

- \$68, if the defendant is convicted of a felony.
- \$53, if the defendant is convicted of a serious misdemeanor or a specified misdemeanor.
- \$48, if the defendant is convicted of any other misdemeanor.

Under the RJA, when fines and costs are assessed by a judge or district court magistrate, the defendant must be ordered to pay costs of at least \$45 for each conviction for a serious misdemeanor or a specified misdemeanor or costs of at least \$40 for each conviction for any other misdemeanor or ordinance violation.

Under the bills, the court will have to order costs of \$50, if the defendant is convicted of a misdemeanor or ordinance violation.

The Code and the RJA state that "serious misdemeanor" means that term as defined in the Crime Victim's Rights Act and "specified misdemeanor" means that term as defined in Public Act 196 of 1989 (the crime victim's rights services Act). The bills delete the definitions of "serious misdemeanor" and "specified misdemeanor".

MCL 769.1j (S.B. 535)
780.901 & 780.905 (S.B. 536)
712A.18 & 712A.18m (S.B. 537)
600.8381 (S.B. 538)

BACKGROUND

Crime Victim Compensation in Michigan

The Crime Victim Services Commission, within the Michigan Department of Community Health (MDCH), is the State agency charged with overseeing a wide range of funding and services for victims of crime. The following information comes from the MDCH website and the Crime Victim Services Commission annual report for fiscal year (FY) 2009-10.

Michigan's crime victim compensation program may award financial assistance to crime victims for the unreimbursable costs of medical expenses, counseling, loss of earnings or support, and burial assistance to survivors. Medical expenses include hospital bills, doctor bills, laboratory fees, ambulance charges, and other related costs. Loss of earnings may be paid to a victim for the period of medical disability resulting from the criminal injury, and loss of support may be paid to survivors upon the death of a victim of homicide if the victim was their primary source of support. Victim compensation is awarded as a last resort; publicly or privately sponsored insurance and court-ordered restitution must be paid first. In addition, victim compensation is

awarded only when the losses represent a financial hardship for the victim.

There are limits, specified in statute, on the amounts that can be paid for various categories of compensation awards. In addition to the crime victim assessments imposed on convicted criminal defendants, the program receives Federal funds from criminal fines ordered in Federal courts.

The MDCH administers three victim service programs providing over \$20.0 million in services for over 250,000 people each year. Programs include crime victim's compensation, crime victim's rights, and crime victim's assistance. All program efforts are fully supported by criminal assessments or fines paid by convicted defendants in State and Federal courts. The Commission provides an advisory function in policy development, determines the amount of revenue needed for crime victim's rights services, and acts as the appeals forum for compensation claims. The Commission also supports training and technical assistance for State victim advocates, and is the project leader for the statewide automated crime victim notification project.

According to the Commission's annual report, the program paid out more than \$5.0 million in direct financial assistance to crime victims in 2,286 claim awards in FY 2009-10 for crime victim compensation. The Commission also awarded more than \$13.3 million in crime victim assistance grants, funding 96 projects. In 33 years of operation, the program paid out \$79.0 million in 32,402 awards of financial compensation.

Public Acts 280, 281, and 282 of 2010

Public Act 280 amended the crime victim's rights services Act to allow excess revenue in the Crime Victim's Rights Fund that has not been used for crime victim compensation to be used for the establishment and maintenance of a statewide trauma system, including staff support associated with trauma and related to emergency medical services program activities. Not more than \$3.5 million from the Fund may be spent for this purpose in any fiscal year. Beginning October 1, 2014, the amount spent from the Fund for the trauma system may not exceed \$1.75 million unless the amount spent is

reasonably proportional to crime victims' use of the statewide trauma system.

Public Act 281 amended the crime victim's rights services Act to increase crime victim's rights assessments imposed on offenders. The Act increased the assessments for felonies from \$60 to \$130; for serious or specified misdemeanors from \$50 to \$75; and for juvenile offenses from \$20 to \$25.

Public Act 282 amended the crime victim's compensation Act to increase the maximum amounts of victim compensation. Public Act 282 raised the maximum aggregate award from \$15,000 to \$25,000 per claimant. It increased the maximum amounts for funeral expenses from \$2,000 to \$5,000, and for weekly lost wages from \$200 to \$350. The amendments also increased compensation for psychological counseling from 26 hours with an hourly rate of \$95, to 35 hours with an hourly rate of \$125. Grief counseling costs were separated from the funeral maximum amount and may be reimbursed at a maximum of \$500. The Act also added crime-scene cleanup costs in certain instances, covered at up to \$500.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

By subjecting all misdemeanor and ordinance violators to the same assessments, the bills will carry out the efforts that were begun in the last legislative session. The benefit increases enacted by Public Act 282, and the trauma system funding authorized by Public Act 280 need to be fully funded. That was partly accomplished when Public Act 281 increased the amount of crime victim's rights assessments. Many thought that Public Act 281 also expanded the base of crime victim's rights assessments by requiring all misdemeanants, not just those who committed certain misdemeanors, to pay the assessments. Public Act 281 did not entirely address that issue, however, and these bills are needed to ensure adequate revenue for all of the authorized expenditures from the Crime Victim's Rights Fund.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills will have a positive, but indeterminate fiscal impact on State and local government. Because the package of bills extends existing crime victim's rights assessments to all criminal convictions, the State will likely experience an increase in the collection of those fees. Additional crime victim's rights assessment revenue will be used to compensate victims as prescribed in the Crime Victim's Rights Act and to maintain or expand local crime victim's rights services.

Public Acts 280 and 282 of 2010 placed additional spending pressures on the Crime Victim's Rights Fund that may necessitate the influx of this additional revenue. Public Act 280 set aside an amount not to exceed \$3.5 million in crime victim services revenue for the establishment and maintenance of a statewide trauma system. Public Act 282 increased maximum victim compensation payments from the Crime Victim's Rights Fund. In the absence of additional revenue, these two acts introduced the possibility that the Fund could be subject to a structural deficit. By extending crime victim's assessment fees to a larger pool of offenders, Senate Bills 535 through 538 will likely generate sufficient revenue to eliminate the possibility of an ongoing deficit in the Crime Victim's Rights Fund.

Fiscal Analyst: Steve Angelotti

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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.