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CRIME VICTIMS: MISC. AMENDMENTS

House Bill 5467 as passed by the House
Second Analysis (8-9-90)

Sponsor: Rep. Perry Bullard
Committee: Judiciary

THE APPARENT PROBLEM:

Under the crime victim's compensation act, reimbursement is available for a crime victim's out-of-pocket costs of medical care, psychological counseling, lost wages, and, in the case of surviving family members, funeral expenses. Awards are limited to \$15,000 per claimant, and payments for lost earnings or support cannot exceed \$100 per week. Funding support for the act comes from both state and federal sources. Under 1988 amendments to the federal Victims of Crime Act (VOCA), federal support for eligible state programs increased from 35 to 40 percent of a state's previous year's payments to crime victims. In fiscal year 1987-88, the latest year for which figures are available, about \$2.5 million in crime victim's compensation grants were awarded in Michigan, with about \$1.9 million coming from state money and about \$600,000 from federal contributions.

The 1988 amendments also modified eligibility criteria for state programs seeking federal funding; states have until October 1, 1990 to satisfy the new requirements. State programs must now offer compensation to victims of domestic violence and drunk driving, and generally "may not deny compensation to any victim because of that victim's familial relationship to the offender, or because of the sharing of a residence by the victim and the offender." However, a program may have rules to prevent the "unjust enrichment" of offenders. A state program must also provide compensation to a resident who was a victim of a crime occurring outside the state if the crime would have been compensable within the state and the state where the crime occurred had no federally-eligible crime victim's compensation program.

Amendments to Michigan's law are necessary to meet federal requirements regarding compensation to victims of domestic violence and victims of crimes occurring in other states. In addition to these changes, the Crime Victims Compensation Board seeks amendments to expand various aspects of the act.

THE CONTENT OF THE BILL:

The bill would amend the crime victim's compensation act to:

- extend the act to apply to a Michigan resident who was the victim of a crime committed in a state that did not have a victim compensation program for which the person was eligible.
- delete language that makes ineligible for compensation (that is, compensation other than medical expenses) a victim who lives with the person responsible for the crime. However, the bill would authorize the crime victims compensation board to deny payment of an award that it determined would cause substantial unjust enrichment and economic benefit to a person criminally responsible for a crime.

- explicitly allow reimbursement for "replacement services," meaning homemaking tasks, child care, transportation, and other services previously performed by the victim that, because of the victim's injury, had to be performed by someone else.
- include grandparents and grandchildren among the family members eligible for compensation when a person died as a result of a crime.
- allow a claim to be filed up to one year after authorities discovered that a crime was the cause of injuries previously thought to be accidental, of unknown origin, or resulting from natural causes. (Generally, the act requires a claim to be filed within one year after the occurrence of the crime upon which the claim is based.)
- increase the limit on loss-of-earnings reimbursements from \$100 to \$200 for each week of lost earnings or support.
- establish minimum and maximum awards for funeral expenses (including burial expenses) of \$500 and \$5,000 for each victim.

MCL 18.351 et al.

FISCAL IMPLICATIONS:

According to the Crime Victims Compensation Board, failure to meet federal requirements would cost the state about \$750,000 in federal funding for the coming year. The Department of Management and Budget anticipates that any increase in costs attributable to the increase in the loss-of-earnings limit could be absorbed within existing budgets. (2-20-90)

ARGUMENTS:

For:

The bill would enable the state to retain hundreds of thousands of dollars in federal support for its crime victims compensation program; that money represents money that goes to crime victims, not money that finances administration. In addition to amendments made necessary by changes in federal eligibility requirements, the bill proposes various amendments that would make for a more humane crime victim's compensation program. Under the bill, grandparents and grandchildren could be reimbursed for the out-of-pocket costs of a crime victim's funeral expenses. The cap on awards for lost wages, unchanged since 1976, would be increased to accommodate inflation and better address the effects of a crime on a person's (or family's) income. The costs of child care and housekeeping for an injured victim are as real as costs for medical care and psychological counseling, and would be explicitly reimbursable under the bill. An extended filing period would apply when deaths previously thought accidental were found to be murder. The bill would improve Michigan's crime victim's compensation program consistent with national trends and federal requirements.

H.B. 5467 (8-9-90)

Against:

As introduced, the bill would have amended the act's definition of "crime," to include a crime committed against a Michigan resident in another state that "does not have a victim compensation program for which the resident is eligible, as eligibility is described in this act." A House committee amendment to the bill, adopted on the floor of the House, amended the proposed definition of "crime" to delete reference to eligibility as defined in Michigan. Federal law says that the state must provide compensation to a state resident who is a victim of a crime occurring outside the state if (1) the crime would be compensable had it occurred inside the state, and (2) the place where the crime occurred did not have an eligible crime victim compensation program. By deleting mention of a victim's eligibility under Michigan standards, the bill changes language that had already been approved by federal authorities and risks failing to satisfy federal requirements. The root of the language problem, however, appears to be that the bill refers to a Michigan resident's eligibility in another state, when federal law speaks of the other state's eligibility under the Victims of Crime Act. The bill should more closely parallel federal law in its language regarding a Michigan resident's eligibility for compensation for a crime committed in another state.

Against:

The bill's provision for minimum and maximum awards for funeral expenses, added on the House floor, risks creating more problems than it would solve. For one thing, the fund cannot support funeral awards of \$5,000; to substantially increase such awards above their current limit of \$1,500 (set by rule), would be to risk shortchanging other applicants under the program. Further, it should be remembered that the program reimburses for out-of-pocket expenses; that is, it pays compensation for expenses not covered by insurance or other sources. The bill proposes to award \$500 for funeral expenses even though out-of-pocket expenses may have been less than that figure, thus disregarding the program's basic structure and contradicting the statutory requirement that a person's out-of-pocket loss be at least \$200 in order to be eligible for compensation under the act. Finally, the special provision for funeral expenses might encourage some funeral directors to assemble funeral packages designed for crime victims compensation. The provision could greatly benefit funeral directors while hampering the program's ability to serve all victims of crime.

For:

Nationally, victims of domestic violence are among the most underserved categories of crime victims. Of roughly 56,000 annual compensation awards in the country, less than 300 are reported to be for domestic violence victims. The bill would eliminate from the Michigan act its presumption against domestic violence victims, while retaining authority to ensure that all criminals, including batterers, are not substantially and unjustly enriched by awards made to their victims.

POSITIONS:

The Michigan Coalition Against Domestic Violence supports the bill. (8-9-90)

The Michigan Women's Commissions supports the bill. (5-9-90)

The Department of Management and Budget supported the bill as introduced

, but does not support amendments that changed the proposed definition of "crime" and set minimum and maximum awards for funeral expenses. (8-7-90)

The Crime Victims Compensation Board supported the bill as introduced, but opposes amendments that changed the proposed definition of "crime" and set minimum and maximum awards for funeral expenses. (8-7-90)