

Act No. 196
Public Act of 1989
September 20, 1989
Filed by the Secretary of State
Septembre 20, 1989

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1989**

Introduced by Reps. Van Regenmorter and Richard A. Young
Rep. Rocca named co-sponsor

ENROLLED HOUSE BILL No. 4869

AN ACT to create the criminal assessments commission; to prescribe the duties of the commission; to create the crime victim rights fund; to provide for expenditures from the fund; to provide for assessments against criminal defendants; to provide for payment of crime victim rights services; and to prescribe the powers and duties of certain state and local agencies and departments.

The People of the State of Michigan enact:

Sec. 1. As used in this act:

- (a) "Commission" means the criminal assessments commission created under section 2.
- (b) "Crime victim rights services" means services required to implement the crime victims rights act, Act No. 87 of the Public Acts of 1985, being sections 780.751 to 780.834 of the Michigan Compiled Laws, and compensation services provided under Act No. 223 of the Public Acts of 1976, being sections 18.351 to 18.368 of the Michigan Compiled Laws.
- (c) "Department" means the department of management and budget of this state.
- (d) "Felony" means a violation of a penal law of this state for which the offender, upon conviction, may be punished by imprisonment for more than 1 year, or an offense expressly designated by law to be a felony.
- (e) "Fund" means the crime victim rights fund created under section 4.
- (f) "Serious misdemeanor" means that term as defined in section 61 of Act No. 87 of the Public Acts of 1985, being section 780.811 of the Michigan Compiled Laws.
- (g) "Impaired or intoxicated driving" means a violation of section 625(1) or (2) or 625b of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.625 and 257.625b of the Michigan Compiled Laws, or a local ordinance substantially corresponding to section 625(1) or (2) or 625b that is punishable by imprisonment for 1 year or less.

Sec. 2. (1) The criminal assessments commission is created within the department.

(2) The commission shall consist of the following members appointed by the governor with the advice and consent of the senate:

- (a) One person who represents the interests of the judiciary.
- (b) One person who is a county prosecuting attorney.
- (c) One person who represents the interests of crime victims.
- (d) One person who is a law enforcement officer.
- (e) One person who represents the interests of criminal defendants.
- (f) The director of the department or his or her representative.

Sec. 3. The criminal assessments commission shall do all of the following:

(a) Investigate and determine the amount of revenue needed to pay for crime victim rights services.

(b) Investigate and determine an appropriate assessment amount to be imposed against convicted criminal defendants to adequately pay for crime victim rights services under section 24 of article I of the state constitution of 1963.

(c) By December 31 of each year, report to the governor, the secretary of the senate, the clerk of the house of representatives, and to the department the commission's findings and recommendations under this section.

Sec. 4. The crime victim rights fund is created as a separate fund in the state treasury. The fund shall be expended only as provided in this act. The state treasurer shall credit to the fund all amounts received under section 5. The state treasurer shall invest fund money in the same manner as surplus funds are invested under section 143 of Act No. 105 of the Public Acts of 1855, being section 21.143 of the Michigan Compiled Laws. Earnings from the fund shall be credited to the fund.

Sec. 5. (1) The court shall order each person convicted of a felony to pay an assessment of \$30.00 and shall order each person convicted of a serious misdemeanor or impaired or intoxicated driving to pay an assessment of \$20.00. If the court allows the payment of fines, costs, restitution, probation oversight fees, or any other obligations of the defendant to be paid in installments, the assessment provided for in this section shall be collected at the time of the first installment payment. The assessment shall be used to pay for crime victim rights services under section 24 of article I of the state constitution of 1963 as provided under this act.

(2) The clerk of the court shall, on the last day of each month, do both of the following:

(a) Transmit all of the assessments received under subsection (1) to the department of treasury with a written report of those assessments as prescribed by the department of treasury.

(b) Transmit a written report to the department, on a form prescribed by the department, containing all of the following information for that month:

(i) The name of the court.

(ii) The total number of criminal convictions obtained in that court.

(iii) The total number of defendants against whom an assessment was imposed by that court.

(iv) The total amount of assessments imposed by that court.

(v) The total amount of assessments collected by that court.

(vi) Other information required by the department.

Sec. 6. (1) A court, department, or local agency which provides services to implement crime victim rights under section 24 of article I of the state constitution of 1963 may apply to the department for compensation for the cost of those services to that court, department, or local agency as provided under this act. The application shall be on a form provided by the department, and shall be submitted quarterly.

(2) The department shall compensate courts and units of government for the actual and reasonable administrative costs incurred by those courts and units of government under this act.

Sec. 7. (1) The department shall direct and authorize the state treasurer quarterly, and in writing, to disburse money from the fund to pay for crime victim rights services.

(2) The department shall establish minimum service and funding levels for the courts, departments, and local agencies that receive funds under this act. A disbursement to cover the minimum funding level established by the department shall be annually distributed to eligible courts, departments, and local agencies. Costs for crime victim rights services beyond the minimum funding level shall be reimbursed to the eligible court, department, or local agency pursuant to section 6. The department shall make the implementation of crime victim rights a priority, and may develop financial incentive programs to enhance the delivery of crime victim rights services under this act.

(3) The department shall make disbursements to the treasurer of a unit of government, and the treasurer shall transmit that money to courts, departments, and local agencies, within that unit of government, as directed by the department. The department may withhold a distribution to a unit of government until the treasurer of that unit of government has distributed all previous disbursements made by the department to courts, departments, and local agencies within that unit of government.

(4) The department shall receive disbursements for its administrative costs as authorized by appropriation.

Sec. 8. A court, department, or local agency that receives a distribution under this act shall use that distribution to enhance and increase crime victim rights services, and not to supplant local, federal, and other state funds that, in the absence of a distribution under this act, are available for providing crime victim rights services or other services to crime victims.

Sec. 9. The department shall annually estimate the cost of providing crime victim rights services and the estimated revenue to be received by the crime victim rights fund. If the estimated revenue is projected to be insufficient to cover the estimated costs of totally funding crime victim rights services, the department shall notify the legislature, and determine whether to request an appropriation or budget transfer to cover the estimated shortfall.

Sec. 10. The department may promulgate rules to implement this act.

Sec. 11. This act shall take effect upon the expiration of 60 days after the date of its enactment.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved

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Governor.