

Legislative Analysis



VARIOUS FINES, COSTS, AND ASSESSMENTS IN CRIMINAL CASES

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House Bill 4798 as enrolled
Public Act 315 of 2005
Sponsor: Rep. William Van Regenmorter

House Bill 5023 as enrolled
Public Act 316 of 2005
Sponsor: Rep. Dave Hildenbrand

House Bill 5145 as enrolled
Public Act 325 of 2005
Sponsor: Rep. Glenn Steil, Jr.

Committee: Judiciary
Second Analysis (8-16-06)

BRIEF SUMMARY: The bills would require certain assessments, fines, and costs to be ordered in criminal cases even if the disposition is deferred or the case is eventually discharged and dismissed and would require money in prisoner's personal accounts, under certain conditions, to be used for the payment of court-ordered assessments, fines, costs, and restitution.

FISCAL IMPACT: The bills would have state and local government fiscal implications. See a more detailed discussion later.

THE APPARENT PROBLEM:

The Legislature and the State Court Administrative Office have been collaborating on a series of bills to address loopholes that exist in various statutes pertaining to assessments, fines, costs, and restitution to crime victims that defendants in criminal cases are often ordered to pay. Last year, Public Act 184 (enrolled House Bill 4588) was enacted to address some of the problems in the Crime Victim's Rights Act. Among other things, Public Act 184 sought to address cases in which the defendant was assigned to youthful trainee status, received a delayed sentence or deferred judgment of guilt, or in any other way had a case resolved by means other than acquittal or unconditional dismissal. Public Act 184 also required defendants, under certain conditions, to make restitution payments while incarcerated. It is apparent that other statutes need similar amendments to provide a statutory basis for the collection of court-ordered assessments, fines, and costs and orders of restitution.

THE CONTENT OF THE BILLS:

The bills, which take effect January 1, 2006, would amend the Crime Victim Rights Services Act and the Code of Criminal Procedure.

House Bill 4798. Currently, the Crime Victim Rights Services Act imposes a \$60 assessment on each person convicted of a felony and a \$50 assessment on each person

convicted of a serious misdemeanor or specified misdemeanor. Generally speaking, the assessment is to be used to pay for crime victim's rights services.

House Bill 4798 would amend the act (MCL 780.905) to instead impose the penalties when a person is *charged with a felony or relevant misdemeanor that is 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 is not an acquittal or unconditional dismissal*. The amount of the assessments would remain the same.

House Bill 5023 would add a new section to Chapter IX, entitled *Judgment and Sentence*, of the Code of Criminal Procedures (MCL 769.1k). Under the bill, if a defendant entered a plea of guilty or nolo contendere or if the court determined after a hearing or trial that the defendant were guilty, both of the following would apply at the time of the sentencing or, as allowed by statute, at the time entry of judgment of guilt was deferred or sentencing delayed:

- The court would have to impose the minimum state costs as set forth in Section 1J of the Chapter IX.
- The court could impose any fine; any cost in addition to the minimum state cost; the expenses of providing legal assistance to the defendant; any assessment authorized by law; and/or a reimbursement under Section 1F of Chapter IX.

The above would apply regardless of whether the defendant was placed on probation, probation was revoked, or the defendant was discharged from probation. In addition, the court could require the defendant to pay any fine, cost, or assessment ordered to be paid under the bill by wage assignment. Further, the court could provide for the amounts imposed under the bill to be collected at any time.

House Bill 5145 would also add a new section to Chapter IX of the Code of Criminal Procedure (MCL 760.1l). Under the bill, if a prisoner under the jurisdiction of the Department of Corrections (DOC) had been ordered to pay any sum of money as provided under House Bill 5023 and the DOC received an order from the court prescribed on a form by the State Court Administrative Office, the DOC would have to deduct 50 percent of the funds received by the prisoner in a month over \$50 and promptly forward a payment to the court as provided in the order when the amount exceeds \$10; the entire amount would have to be forwarded if the prisoner were paroled, transferred to community programs, or discharged on the maximum sentence. The DOC would also be required to give priority to an order of restitution under the Corrections Code or the Crime Victims' Rights Act over an order received under the provisions of House Bill 5023. The bill is tie-barred to House Bill 5023.

FISCAL INFORMATION:

To the extent that House Bill 4798 enabled crime victims rights assessments to be collected from offenders who otherwise might not have to pay, the bill would increase revenues for the Crime Victim's Rights Fund, which supports services for crime victims.

Similarly, to the extent that House Bill 5023 enabled increased collections of court fines, costs, assessments, and restitution, it could increase revenues from those sources, which support local libraries, law enforcement, courts, and the budgets for the Judiciary and the Department of Corrections.

House Bill 5145 would have an indeterminate fiscal impact on the state and local units of government, depending on how it affected amounts collected for court-ordered fines, costs, and assessments, and the Crime Victim's Rights Fund. To the extent that it increased the amount of restitution paid, it could increase revenue for the Crime Victim's Rights Fund while decreasing amounts available for payment of other fines, fees, costs, and assessments, which support local libraries, courts, law enforcement, and the budgets for the Judiciary and the Department of Corrections. Through requirements for monthly reviews of offender accounts and disbursements of certain funds as ordered by the court, bill also could increase administrative costs for the Department of Corrections.

ARGUMENTS:

For:

The bill package is viewed as being technical in nature. Current law already allows a court to impose various assessments, fines, costs, and orders of restitution. The problem is that the statutes are in need of clarification on the authority both to impose and to collect on those orders, especially if a defendant is incarcerated or had received a delayed sentence or deferred judgment of guilt. For example, House Bill 5145 would provide the statutory authority for the Department of Correction to use some of the money in prisoners' personal accounts for the payment of any court-ordered fines, restitution, etc. The language in the bills parallels that in the recently enacted Public Act 184 of 2005, and would basically facilitate the collection of more assessments, fines, costs, and restitution from criminal defendants.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.