



**House
Legislative
Analysis
Section**

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

**RESTITUTION FOR CRIME: ADD
DOMESTIC VIOLENCE SHELTERS**

**House Bill 4509 as enrolled
Public Act 121 of 1996
Sponsor: Rep. Eric Bush**

**House Bill 4510 as enrolled
Public Act 122 of 1996
Sponsor: Rep. James Ryan**

**House Bill 4608 as enrolled
Public Act 123 of 1996
Sponsor: Rep. Roland Jersevic**

Second Analysis (4-2-96)

**House Committee: Judiciary and Civil
Rights
Senate Committee: Families, Mental
Health, and Human Services**

House Bills 4509, 4510, and 4608 (4-2-96)

THE APPARENT PROBLEM:

In 1993, the legislature enacted a package of laws (Public Acts 341 through 348) that broadened and strengthened laws affecting crime victims. Among other things, the 1993 laws require, rather than allow, courts to order restitution for crime victims; extended eligibility for restitution to include not only individuals and businesses but also associations, governmental entities, "or any other legal entity that suffered direct physical or financial harm"; require certain juvenile defendants (those "waived" into the circuit court from the juvenile division of the probate court in the case of certain crimes) to pay restitution to their victims; and add certain expenses (the costs of child care, homemaking, and the seizure or impoundment of property) for which restitution can be ordered.

Legislation has been proposed to add domestic violence shelters to the provisions allowing the payment of restitution directly to an organization that provides services to a crime victim.

THE CONTENT OF THE BILLS:

Under the Crime Victim's Rights Act, the Code of Criminal Procedure, and the juvenile code, courts are required to order restitution for crime victims. If a crime victim or his or her family consents, an order of restitution may require that the defendant make

restitution in the form of services in lieu of money or make restitution to a "person" designated by the victim or his or her estate if that person had provided services to the victim as the result of the crime.

The bills would amend the restitution provisions in each of these three laws to delete the provisions allowing restitution to a person designated by the victim (or the victim's estate) if that person provided services to the victim as a result of the crime, and instead would specify that -- in addition to continuing to allow restitution to be made for services in lieu of money -- the court would be required to order restitution, for the cost of services provided (including, but not limited to, shelter, food, clothing, and transportation), to persons or entities that had provided services to the victim as the result of the crime. The bills also would authorize enforcement of orders of restitution by any persons or entities named in the order of restitution to receive the restitution (in addition to, as currently is allowed, the prosecuting attorney, the victim, or the victim's estate). In addition, House Bill 4509 would subject juveniles to the acts' restitution provisions for all offenses (instead of just for "juvenile offenses").

House Bill 4509 would amend the Crime Victim's Rights Act (MCL 780.766 et al.), House Bill 4510 would amend the Code of Criminal Procedure (MCL

769.1a), and House Bill 4608 would amend the juvenile code (MCL 712A.30).

The bills would take effect on May 1, 1996.

BACKGROUND INFORMATION:

Currently, restitution payments may be ordered for (a) property lost or damaged as the result of a crime, (b) the costs of the victim's medical and related professional services and devices, (c) physical and occupational therapy and rehabilitation, (d) income loss suffered by the victim as the result of the crime, (e) the costs of psychological and medical services to members of the victim's family, (f) child care and homemaking expenses, and, where the victim had been killed, (g) funeral expenses. However, if the victim or the victim's estate consents, the order of restitution may require that instead of paying the above restitution, the defendant make restitution (a) in services instead of money or (b) to a person designated by the victim or his or her estate if that person provided services to the victim as the result of the crime.

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, the bills would have no significant impact on state or local government. (2-6-96)

ARGUMENTS:

For:

The bills would provide concrete ways of holding abusive family members accountable for their abusive behavior, while at the same time providing a possible source of additional funding for domestic violence shelters, which provide services to victims of domestic assault.

Domestic violence continues to be a serious problem that threatens the health and welfare of families regardless of their socioeconomic status. According to the Department of Social Services, there was a 77 percent increase in the number of domestic abuse incidents reported between 1989 (19,416) and 1993 (34,505). And even despite this dramatic increase in reported abuse cases, reportedly the number of actual cases still is being underreported. The department reports that in Michigan, in fiscal year 1993-94, domestic violence shelters provided over 212,000 nights of shelter and counseling, advocacy, and other support services to 6,340 adult victims and their children, with another 9,780 adult victims being helped on a non-residential basis. Given the number of assaultive crimes

that occur within families (the Federal Bureau of Investigation reported that in 1989, 28 percent of female murder victims were killed by their male partners), the bills would provide another way to hold domestic abusers accountable for their actions by allowing the possibility that they be required to pay for some of the services that their assaultive behavior necessitates.

Michigan reportedly has 45 domestic violence shelters, and though the cost of domestic violence services varies somewhat in different communities, virtually every shelter could use additional funding. The DSS currently awards \$4.1 million in grants, through the Domestic Violence Prevention and Treatment Board, to support emergency shelter, counseling, and advocacy services, but these grants, by statute, cover only part of the actual costs of the services provided by the shelters. To cover these additional costs, domestic violence service agencies use volunteers, do community fund raising, and, in many cases, receive funds from other sources such as the United Way, local foundations, and other federal, state, and local sources. By providing for victim restitution fees, the bills would supplement the funding to domestic violence shelters and enhance their ability to provide these much-needed services.

Against:

If a defendant who was ordered to pay restitution was poor, his or her ability to provide support to dependent children could conceivably be jeopardized by the requirement that restitution be paid.

Response:

In determining the amount of restitution, the court must, by law, consider the defendant's earning ability, financial resources, and any other special circumstances that could affect his or her ability to pay. Thus, reimbursement to domestic violence shelters -- or any other restitution payments, for that matter -- will only be required when determined to be appropriate by the court. The bills wouldn't increase the amount of restitution, but rather would expand the number of entities eligible to receive restitution if appropriate.

■ 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.