



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bills 4509, 4510, and 4608 (as reported without amendment)

Sponsor: Representative Eric Bush (House Bill 4509)
 Representative James Ryan (House Bill 4510)
 Representative Roland Jersevic (House Bill 4608)

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

Date Completed: 6-1-95

RATIONALE

Public Acts 341 through 348 of 1993 amended various laws to expand provisions concerning the rights of crime victims. Among many other things, these amendments require, rather than allow, courts to order restitution, including restitution by juvenile offenders or their parents; increase Crime Victim's Rights Fund assessments and impose them on juvenile offenders; and extend eligibility for restitution to associations, governmental entities, and other legal entities "that suffered direct physical or financial harm", in addition to individuals and businesses. In determining the amount of restitution, a court must consider the defendant's earning ability, financial resources, and any other special circumstances that may have a bearing on his or her ability to pay. Restitution may be ordered to compensate for property damage and income loss, to pay for medical and psychological treatment for the victim and his or her family, and to pay homemaking and child care expenses. If the victim or his or her estate consents, instead of requiring restitution for these purposes, a court may require the defendant to make restitution in services in lieu of money or to make restitution to a person designated by the victim or his or her estate if that person provided services to the victim as a result of the offense. Since many crime victims rely on domestic violence services provided by communities and nonprofit organizations, it has been suggested that shelters be included among that entities that may receive a victim's restitution, with the victim's consent.

CONTENT

House Bill 4509 would amend the Crime Victim's Rights Act, House Bill 4510 would amend the

Code of Criminal Procedure, and House Bill 4608 would amend the juvenile code to specify that in provisions allowing restitution to a person designated by a crime victim, "person" would include, but would not be limited to, a shelter program for victims of domestic violence and their dependent children or a similar community service program. Further, House Bills 4509 and 4510 provide that an order of restitution could be enforced by any person named in the order to receive restitution, in addition to the prosecuting attorney, victim, and victim's estate as currently provided.

The bills would take effect October 1, 1995.

MCL 780.766 et al. (H.B. 4509)
 769.1a (H.B. 4510)
 712A.30 (H.B. 4608)

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

According to the Department of Social Services (DSS), the Uniform Crime Reporting Division of the Michigan State Police reports that between 1989 and 1993, there was an increase of 77%, from 19,416 to 34,505, in the number of domestic violence incidents reported to Michigan law enforcement agencies. The DSS further reports that in fiscal year 1993-94, domestic violence shelters in Michigan provided over 212,000 nights of shelter and counseling, advocacy, and other support services to 6,340 adult victims and their children, and another 9,780 adult victims were assisted on a nonresidential basis. Clearly,

domestic violence is a serious threat to the health and safety of families in this State, and domestic violence shelters are a refuge sought by a significant number of victims. Although the DSS, through the Domestic Violence Prevention and Treatment Board, currently awards \$4.1 million in grants to domestic violence shelter programs, these funds by law cover only a portion of the actual cost of services. To cover the total cost, each domestic violence service agency uses volunteers and raises additional funds through community fund-raising, as well as public and private donations. By allowing victims to designate shelters to receive crime victims' restitution, the bills would supplement the funds received by these vital agencies, and would strengthen the services that they provide. The bills also would provide a concrete way for courts to send a message to individuals who abuse family members that they will be held accountable for their behavior. In addition, House Bills 4509 and 4510 could improve the enforcement of restitution orders by allowing an order to be enforced by anyone named in it to receive restitution.

Opposing Argument

Indigent defendants may not be able to afford to pay restitution. If these individuals continue to be financially responsible for their children, restitution could threaten economic support and risk further harm to an abuser's family.

Response: Court-ordered restitution is determined on a case-by-case basis, taking into consideration each defendant's financial circumstances and responsibilities. These bills would not increase the amount of restitution or the cases in which it must be paid; they simply would expand the entities eligible to receive restitution with a victim's consent.

Legislative Analyst: S. Margules

FISCAL IMPACT

It appears that the bills would have no significant fiscal impact on State or local government. The amendments would enable an order of restitution to be designated to organizations or programs of the victim's choice.

Fiscal Analyst: C. Cole

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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.