



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

BILL ANALYSIS



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

House Bill 4509 (Substitute S-1 as reported)
House Bill 4510 (Substitute S-1 as reported)
House Bill 4608 (Substitute S-1 as reported)
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
First Senate Committee: Families, Mental Health and Human Services
Second Senate Committee: Judiciary

Date Completed: 2-6-96

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, some people believe that courts should have to order that restitution be paid to a person or entity that provided services to the crime victim.

CONTENT

House Bill 4509 (S-1) would amend the Crime Victim's Rights Act, House Bill 4510 (S-1) would amend the Code of Criminal Procedure, and House Bill 4608 (S-1) would amend the juvenile code to specify that in provisions concerning restitution for an offense, the court would have to order restitution, for the costs of services provided, to persons or entities that had provided services to the victim as a result of the crime. Services subject to restitution under the bills would include, but not be limited to, shelter, food, clothing, and transportation. The bills also provide that an order of restitution could be enforced by any person or entity named in the order to receive restitution, in addition to the prosecuting attorney, victim, and victim's estate as currently provided.

Currently, all three laws provide that, if a victim or his or her estate consents, an order of restitution may require that the defendant make restitution in services in lieu of money or 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. Under the bills, restitution could continue to be made for services in lieu of money, but the bills would delete the provision allowing restitution to a person designated by the victim or victim's estate if that person provided services to the victim as a result of the crime.

The bills would take effect on May 1, 1996.

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, awarded \$4.1 million in the 1994-95 fiscal year in grants to domestic violence shelter programs, these funds 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 requiring courts to award restitution for services provided as a result of crime, 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, the bills 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: P. Affholter

FISCAL IMPACT

It appears that the bills would have no significant fiscal impact on State or local government. The amendments would require an order of restitution for services provided to the victim to be designated to organizations or programs.

Fiscal Analyst: C. Cole

H9596\S4509B

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.