

Legislative Analysis



REVISIONS TO CRIME VICTIM'S RIGHTS ACT

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House Bill 4588

Sponsor: Rep. William VanRegenmorter

Committee: Judiciary

Complete to 5-17-05

A SUMMARY OF HOUSE BILL 4588 AS INTRODUCED 4-12-05

The bill would amend the Crime Victim's Rights Act to implement a variety of amendments to each of the act's three articles. The articles apply to victims of adult felonies, juvenile offenses, and serious misdemeanors.

The bill would make several changes and additions to the article pertaining to victims of adult felonies. Most significantly, the act would 1) now also apply to a person found not guilty by reason of insanity, and 2) restitution would – in addition to current requirements – have to be ordered for an offense that was resolved by assignment of the defendant to youthful trainee status, by a deferred or delayed sentence or entry of judgment, or in another way that was not an acquittal, conviction, or unconditional dismissal.

Not Guilty by Reason of Insanity. The bill would revise the definition of "defendant" to include a person found not guilty by reason of insanity. The director of a hospital or center where a defendant who had been found not guilty by reason of insanity was being hospitalized (or admitted by court order) would be required to notify the victim by mail of a pending transfer of the defendant to a less secure hospital or center, to alternative care or treatment, or to community placement; or, a pending leave, absence, furlough, or other release from confinement whether temporary or permanent. The notice must be mailed before the action took place. The bill would incorporate the definition of "hospital" and "center" contained in the Mental Health Code.

Several provisions would be amended to include references to the hospital or center. For example, victims choosing to receive certain notices or exercise rights under the act currently must keep the prosecuting attorney, Department of Corrections, or Department of Human Services or the county juvenile agency informed of their current address and phone number; the bill would expand this to include the hospital or center that a defendant found not guilty by reason of insanity was admitted to.

Other Provisions. Other changes include specifying that a record of a victim's oral statement or a written statement given before the parole board would not be subject to public disclosure under the Freedom of Information Act; that a victim would not be restricted to only one request for a calculation of a prisoner's earliest release date or earliest parole eligibility date; and that upon the victim's written request, the probation office overseeing a defendant's probation would have to notify the victim if the probation was revoked and the defendant sentenced to the Department of Corrections or to jail for

more than 90 days. This notice would have to include a form that the victim could use to request other notices available to victims under the act.

The bill would place the following substantially similar amendments in each of the act's three articles:

- For purposes of restitution, use the broader definition of "victim" contained in the definition section of each article.
- Define "serious impairment of a body function" to mean that term as defined by Section 58c of the Michigan Vehicle Code.
- If payment of restitution is a condition of probation, the bill would require, instead of allow, a court to order any employed defendant to execute a wage assignment to pay the restitution. This would also apply to restitution ordered as a condition of parole.
- Require the restitution amount to be deposited into the Crime Victim's Rights Fund if a person refused to accept the restitution or could not claim the restitution because of a provision of law, including a provision abolishing tort liability.
- If a defendant owing restitution declares bankruptcy, require a court to forward to the victim (and anyone else owed restitution) a copy of that notice.
- Further restrict an offender's ability to profit from his or her criminal actions by prohibiting the sale of memorabilia of the person or the crime, or the sale of the person's property, that has had its value increased or enhanced by the person's notoriety. Similarly amend a provision pertaining to forfeiture of proceeds received or to be received by the defendant from contracts relating to the crime.
- Require a prosecuting attorney to provide the victim with a brief explanation in plain English of the appeal process regardless of whether or not the victim requested it.
- Specify that unless full restitution and all assessments had been paid in a proceeding, money collected for the payment of fines, costs, restitution, assessments, probation or parole supervision fees, or other payments in that proceeding could not be applied to fines, costs, probation or parole supervision fees, or other payments ordered in another case or proceeding.

In addition, the bill would add to the definition of "offense" as used in the articles pertaining to juveniles and serious misdemeanors the crimes of contributing to the neglect or delinquency of a minor, injuring a highway construction worker in a work zone, and using the Internet or a computer to make prohibited communications (for serious misdemeanors, the latter crime would only apply if it resulted in a misdemeanor conviction). Lastly, under current law, if a defendant out on bail for a serious misdemeanor engages in acts or threats of physical violence against a victim or the victim's immediate family, a prosecutor can move that the defendant's bond or personal recognizance be revoked. The bill would eliminate this provision.

MCL 780.752 et al.

FISCAL IMPACT:

The bill would have an indeterminate fiscal impact on the state and local units of government, depending on how it affected amounts collected for penal fines, court fees, offender supervision fees, and the Crime Victim's Rights Fund. It also could increase administrative costs for the Department of Corrections and the Department of Community Health.

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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.