

## CRIME VICTIM'S RESTITUTION

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### Senate Bill 145

Sponsor: Sen. Jim Barcia

### Senate Bill 146

Sponsor: Sen. Alan L. Cropsey

House Committee: Judiciary

Senate Committee: Judiciary

Complete to 4-28-09

## A SUMMARY OF SENATE BILLS 145 AND 146 AS PASSED BY THE SENATE 3-10-09

The bills would amend different acts to specify that, in situations in which a defendant is ordered by a court to make restitution to his or her victim for property that is lost, damaged, or destroyed, the restitution be based on the fair market value, or the replacement value if the fair market value cannot be determined. The bills are tie-barred to each other, meaning that neither can take effect without both being enacted.

Under the Code of Criminal Procedure, when a defendant is sentenced for a felony, misdemeanor, or ordinance violation, the court must require the defendant to make full restitution to a victim (or the victim's estate) of the defendant's conduct that gave rise to the conviction.

Likewise, under the William Van Regenmorter Crime Victim's Rights Act, a court must order the defendant or juvenile to make full restitution to any victim or a victim's estate when it sentences a defendant for a crime that is punishable by more than one year's imprisonment or that is expressly designated as a felony; when it provides a disposition for a juvenile for an offense that would be a crime if committed by an adult; or when it sentences a defendant for a misdemeanor punishable by imprisonment for not more than one year or a fine that is not a civil fine.

Often a victim's property is lost, damaged, or destroyed as a result of the crime, or is seized or impounded by law enforcement, making it impossible, impracticable, or inadequate for the defendant to return the property as part of the restitution. In these instances, both statutes require the defendant to pay an amount equal to the greater of the following, less the value of the property or any part of it that is returned:

- \* The value of the property on the date of the damage, loss, or destruction.
- \* The value of the property on the date of sentencing.

The bills would instead refer to the fair market value of the property and would require the replacement value to be utilized in lieu of the fair market value if the fair market value of the property could not be determined or was impractical to ascertain.

Senate Bill 145 would amend the Code of Criminal Procedure (MCL 769.1a).

Senate Bill 146 would amend the William Van Regenmorter Crime Victim's Rights Act. (MCL 780.752 et al.).

**FISCAL IMPACT:**

These bills would have no fiscal impact on state or local government.

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