

Legislative Analysis



RESTITUTION TO DECEASED CRIME VICTIM

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House Bill 4636 as enrolled
Public Act 139 of 2013
Sponsor: Rep. Tom Leonard

House Committee: Judiciary
Senate Committee: Judiciary

First Analysis (1-10-14)

BRIEF SUMMARY: The bill would clarify that if a crime victim dies after restitution has begun, the remaining restitution would be made to those entitled to inherit from the victim's estate.

FISCAL IMPACT: House Bill 4636 has no fiscal implications for the state Crime Victim Services program in the Department of Community Health.

THE APPARENT PROBLEM:

When a court sentences a defendant for a crime that is punishable by imprisonment for more than one year or that is expressly designated as a felony, or provides a disposition for a juvenile for an offense that would be a crime if committed by an adult, or sentences a defendant for a misdemeanor punishable by imprisonment for not more than one year or a fine that is not a civil fine, the court must order the defendant or juvenile to make full restitution to any victim of the crime or to the victim's estate.

Reportedly, the original intent of the William Van Regenmorter Crime Victim's Rights Act (CVRA) was that any court-ordered restitution was to be fully paid by the defendant. If the victim is deceased, the act requires payments to go to the victim's estate. Apparently, some judges have been interpreting this provision as meaning that if the victim was deceased at the time the restitution order was imposed, then the payments would go to the estate. But if the victim died after the defendant had begun to make restitution, the judges were voiding the restitution order. It has been suggested that the language be clarified to ensure that restitution is fully rendered.

THE CONTENT OF THE BILL:

The bill would amend the William Van Regenmorter Crime Victim's Rights Act to clarify that if a victim is deceased or dies, the court shall order that the restitution or remaining restitution be made to those entitled to inherit from the victim's estate. (Underlining denotes the new language added by the bill.)

(MCL 780.766, 780.794, and 780.794)

ARGUMENTS:

For:

The bill simply clarifies that restitution must be fully repaid. If a victim dies after restitution is partially repaid, the remaining amount of the restitution is to be made to those entitled to inherit from the victim's estate. Thus, the intent of the original legislation would be restored and re-emphasized.

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