

Legislative Analysis



VARIOUS FINES, COSTS, AND ASSESSMENTS IN CRIMINAL CASES

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4798 (Substitute H-2)
Sponsor: Rep. William Van Regenmorter

House Bill 5023 (Substitute H-4)
Sponsor: Rep. Dave Hildenbrand

House Bill 5145 (Substitute H-1)
Sponsor: Rep. Glenn Steil, Jr.
Committee: Judiciary

First Analysis (10-11-05)

BRIEF SUMMARY: The bills would require certain assessments, fines, and costs to be ordered in criminal cases even if the disposition is deferred or the case eventually discharged and dismissed.

FISCAL IMPACT: The bills would have state and local government fiscal implications. See a more detailed discussion below.

THE APPARENT PROBLEM:

The Legislature and the State Court Administrative Office have been collaborating on a series of bills to address loopholes that exist in various statutes pertaining to assessments, fines, costs, and restitution to crime victims that defendants in criminal cases are often ordered to pay. Earlier this year, House Bill 4588, which has been enrolled but not yet signed into law, was introduced to address some of the problems in the Crime Victim's Rights Act. Among other things, House Bill 4588 sought to address cases in which the defendant was assigned to youthful trainee status, received a delayed sentence or deferred judgment of guilt, or in any other way had a case resolved by means other than acquittal or unconditional dismissal. It is apparent that other statutes need similar amendments to provide a statutory basis for the collection of court-ordered assessments, fines, and costs and orders of restitution.

THE CONTENT OF THE BILLS:

House Bill 4798. Currently, the Crime Victim Rights Services Act imposes a \$60 assessment on each person convicted of a felony and a \$50 assessment on each person convicted of a serious misdemeanor or specified misdemeanor. Generally speaking, the assessment is to be used to pay for crime victim's rights services.

House Bill 4798 would amend the act (MCL 780.905) to instead impose the penalties when a person is *charged with* a felony or relevant misdemeanor *that is resolved by*

conviction, by assignment of the defendant to youthful trainee status, by a delayed sentence or deferred entry of judgment of guilt, or in another way that is not an acquittal or unconditional dismissal. The amount of the assessments would remain the same.

House Bill 5023 would add a new section to Chapter IX, entitled *Judgment and Sentence*, of the Code of Criminal Procedures (MCL 769.1k). Under the bill, if a defendant entered a plea of guilty or nolo contendere or if the court determined after a hearing or trial that the defendant were guilty, both of the following would apply at the time of the sentencing or, as allowed by statute, at the time entry of judgment of guilt was deferred or sentencing delayed:

- The court would have to impose the minimum state costs as set forth in Section 1J of the Chapter IX.
- The court could impose any fine; any cost in addition to the minimum state cost; the expenses of providing legal assistance to the defendant; and/or any assessment authorized by law, including a reimbursement set forth in Section 1F of Chapter IX.

The above would apply regardless of whether the defendant was placed on probation, probation was revoked, or the defendant was discharged from probation. In addition, the court could require the defendant to pay any fine, cost, or assessment ordered to be paid under the bill by wage assignment. Further, the court could provide for the amounts imposed under the bill to be collected at any time.

The bill would take effect January 1, 2006.

House Bill 5145 would also add a new section to Chapter IX of the Code of Criminal Procedure (MCL 760.1l). Under the bill, if a defendant who had been ordered to pay fines, costs, or assessments under the provisions of House Bill 5023 were incarcerated, the sheriff or Department of Corrections would have to deduct 50 percent of the funds received by the defendant in a month over \$50 for payment of the fine, cost, or assessment if ordered to do so by the court. The sheriff or DOC would have to promptly forward the deducted funds when the amount exceeded \$100 or would have to forward the entire amount if the defendant were released from custody. The sheriff or DOC would also be required to give priority to an order of restitution under the Corrections Code or the Crime Victims' Rights Act over an order received under the provisions of House Bill 5023.

The bill is tie-barred to House Bill 5023.

FISCAL INFORMATION:

To the extent that House Bill 4798 enabled crime victims rights assessments to be collected from offenders who otherwise might not have to pay, the bill would increase revenues for the Crime Victim's Rights Fund, which supports services for crime victims.

Similarly, to the extent that House Bill 5023 enabled increased collections of court fines, costs, assessments, and restitution, it could increase revenues from those sources, which support local libraries, law enforcement, courts, and the budgets for the Judiciary and the Department of Corrections.

House Bill 5145 would have an indeterminate fiscal impact on the state and local units of government, depending on how it affected amounts collected for court-ordered fines, costs, and assessments, and the Crime Victim's Rights Fund. To the extent that it increased the amount of restitution paid, it could increase revenue for the Crime Victim's Rights Fund while decreasing amounts available for payment of other fines, fees, costs, and assessments, which support local libraries, courts, law enforcement, and the budgets for the Judiciary and the Department of Corrections. Through requirements for monthly reviews of offender accounts and disbursements of certain funds as ordered by the court, bill also could increase administrative costs for county sheriffs and the Department of Corrections.

ARGUMENTS:

For:

The bill package is viewed as being technical in nature. Current law already allows a court to impose various assessments, fines, costs, and orders of restitution. The problem is that the statutes are in need of clarification on the authority both to impose and to collect on those orders, especially if a defendant is incarcerated or had received a delayed sentence or deferred judgment of guilt. For example, House Bill 5145 would provide the statutory authority for sheriffs or the Department of Correction to use some of the money in prisoners' personal accounts for the payment of any court-ordered fines, restitution, etc. The language in the bills parallels that in the recently enrolled legislation, and would basically facilitate the collection of more assessments, fines, costs, and restitution from criminal defendants.

POSITIONS:

A representative of the State Court Administrative Office testified in support of the bills.
(10-5-05)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Marilyn Peterson

■ 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.