

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1010 (Delegate Petzold, *et al.*)
Judiciary

Judicial Proceedings

Criminal Procedure - Restitution

This bill makes several revisions to the State's restitution laws.

Fiscal Summary

State Effect: Potential minimal increase in expenditures by the Department of Public Safety and Correctional Services (DPSCS). Modification of forms by the District Court could be handled using existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill expands the definition of "victim" for the purposes of restitution eligibility to include a person who dies as a result of a crime or delinquent act.

A court may award compensation for losses as a component of restitution damages. Restitution may be authorized for rehabilitation expenses.

A written statement or bill subject to restitution is legally sufficient evidence of the amount, fairness, and reasonableness of the charge and the necessity of the service. Payment to the victim has priority over payments owed to the State for reimbursement.

A victim may receive a restitution judgment up to \$10,000 for each child's act arising out of a single incident, instead of a maximum cap of \$10,000 for the incident, regardless of the number of actors.

A third party who pays an expense on behalf of a victim may receive restitution.

DPSCS and the Department of Juvenile Services (DJS) must notify the court if a restitution obligor is overdue on a restitution payment and request that the obligor's earnings be withheld. A restitution obligor or the obligor's employer must notify the Central Collection Unit of any change of status of the obligor.

In Baltimore City only, the Clerk of the District Court is to record and index a restitution judgment as a money judgment, whether or not the victim or other payee files a written request to the court to record it.

The bill also prohibits the assessment of court costs on a payee for filing a notice of satisfaction with the court and repeals the staying of an execution of a restitution judgment if the obligor files a motion to stay the execution of sentence.

Current Law: A person who suffers personal injury or property damage or loss as a direct result of a crime or delinquent act, or, if the person is deceased, the person's personal representative is entitled to restitution to cover the victim's actual expenses, including loss of earnings. The Department of Health and Mental Hygiene or another governmental unit may also receive restitution for expenses paid in connection with the act. "Crime" means an act committed by a person in the State that is a crime under common law or the Maryland Code, except for nonjailable transportation offenses, and also includes certain local violations.

State Expenditures: The Division of Parole and Probation could incur increased expenses in updating offender payment plans in those cases where future rehabilitation costs cannot be determined at the time of sentencing. The division could also incur increased expenditures in tracking compliance with an increased number of earnings withholdings orders issued by the court.

The Administrative Office of the Courts advises that two forms used by both the District Court and circuit courts, *Judgment of Restitution* and *Earnings Withholding Order*, would have to be revised to reflect the changes in the law.

Additional Comments: The Department of Budget and Management, DJS, and DPSCS failed to respond to the Department of Legislative Services' requests for a fiscal estimate. The reference to the Division of Parole and Probation is based on estimates from the 2004 legislative session.

Additional Information

Prior Introductions: HB 786 of 2004, an identical bill, passed the House, but no action was taken in the Senate. Two similar, but broader, bills were introduced in 2003. HB 305 received an unfavorable report from the Judiciary Committee. SB 277 received a hearing by the Judicial Proceedings Committee, but no further action was taken.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Comptroller's Office, Department of Public Safety and Correctional Services, Department of Legislative Services

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ncs/jr

Analysis by: Kineta A. Rotan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510