
Judiciary Committee

HB 3235

Title: An act relating to victim restitution.

Brief Description: Concerning restitution for victims.

Sponsors: Representatives Goodman, Ross, O'Brien, Warnick, Kelley, Pearson, Hurst, Sells, Kirby, Linville, Rolfes, Roach, Roberts, Morrell, Green, Armstrong and VanDeWege.

Brief Summary of Bill

- Provides that a purpose of the Sentencing Reform Act is to consider a victim's needs and provide restitution and support as needed to ensure that he or she will not be further victimized.
- Requires the restitution portion of a person's legal financial obligation to be established as soon as possible at the time of sentencing, and requires the order to include the location of the offender's assets and any assets stolen from the victim for seizure and return to the victim.

Hearing Date: 2/4/08

Staff: Sean Gamble (786-5793) and Edie Adams (786-7180).

Background:

The Sentencing Reform Act (SRA) applies to adults convicted for felony offenses. The purposes of the SRA are to make the criminal justice system more accountable to the public by:

- ensuring proportionality of the punishment for crime;
- promoting respect for the law by providing for just punishment;
- providing for commensurate punishments for similar offenses;
- protecting the public;
- offering the offender an opportunity to improve him or herself;
- making frugal use of the state and local governments' resources; and
- reducing the risk of reoffending by offenders in the community.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

When a person is convicted of a crime, the court may impose legal financial obligations (LFOs) as part of the sentence. One component of LFOs is restitution for damages caused by the offender. Restitution for a criminal conviction includes damages for personal injury, loss of property, medical expenses, and counseling expenses. Restitution does not include mental anguish or pain and suffering.

A court determines the amount of restitution and other LFOs at the sentencing hearing, or within 180 days. This time period can be extended by the court for good cause. When setting the amount, the court takes into consideration the total amount of restitution owed, the offender's present, past, and future ability to pay, as well as any assets owned by the offender. The court may set the LFO payment schedule that the offender is required to follow at the time the LFO order is entered. In order to assist the court in creating the payment schedule, the Department of Corrections (DOC) meets with the offender to determine the offender's resources, and makes a recommendation to the court on the monthly payment amount.

The DOC is responsible for supervising collection of LFOs during the time the offender is incarcerated or under DOC supervision in the community. If the court did not set a monthly payment schedule at the time the LFO order was entered, the DOC may establish the monthly payment schedule. County clerks are responsible for supervising collection once the offender is no longer under DOC supervision in the community.

Summary of Bill:

The purpose section of the Sentencing Reform Act is amended to include considering a victim's needs and providing restitution and support as needed to ensure that the person will not be further victimized.

Victim restitution must be established as soon as possible at the time of sentencing. The order must include the location of the offender's assets and any assets stolen from the victim.

The offender must report to the county clerk as well as to the DOC for purposes of preparing a monthly LFO payment schedule. The LFO payment schedule covers the offender's payments before, during, and after the period of supervision.

The county clerk as well as the Department of Corrections must report to the court a recommendation on the amount of monthly payments the offender should be required to make. The report must include the offender's assets and assets stolen from the victim for seizure and return to the victim.

Appropriation: None.

Fiscal Note: Requested on 1/31/08.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.