

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

House Bill 453
Judiciary

(Delegate Niemann)

Judicial Proceedings

Courts and Judicial Proceedings - Criminal Injuries Compensation Fund - Court Costs

This bill requires the imposition of court costs if a defendant is sentenced to probation before judgment (PBJ) for or pleads *nolo contendere* to a crime or offense.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: None. The Judiciary has determined that this bill codifies current practice.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Statutory language establishes that court costs are imposed on a defendant convicted of a crime in the amount of \$45 for the circuit court and \$35 for the District Court. An additional court cost, in the amount of \$3, is imposed on a defendant convicted of certain motor vehicle offenses in the District Court.

Maryland Rule 4-353 establishes that unless otherwise ordered by the court, a judgement of conviction, an order accepting a plea of *nolo contendere*, or a disposition by probation before judgement must include an assessment of costs against the defendant.

The Comptroller deposits \$22.50 from each fee collected in the circuit courts and \$12.50 from each fee collected in District Court (excluding fees from motor vehicle cases that are not punishable by imprisonment) into State Victims of Crime Fund (SVCF), a special fund used for carrying out statutory guidelines for treatment and assistance to victims of

crime and delinquent acts. The State Board of Victims Services in the Governor's Office of Crime Control and Prevention is responsible for administering the fund.

The Comptroller deposits \$2.50 from each fee collected in circuit courts and the District Court (excluding fees from motor vehicle cases that are not punishable by imprisonment) to VWPRF. This is a special fund used to carry out the Victim and Witness Protection and Relocation Program which is administered by the States' Attorneys' coordinator.

All other monies from these fees are deposited into CICF, a special fund within the Department of Public Safety and Correctional Services (DPSCS), that provides financial assistance for innocent victims of crime. The fund is administered by the Criminal Injuries Compensation Board (CICB).

CICF and SVCF share the first \$500,000 attained from the \$3 assessed in the District Court for motor vehicle cases that are not punishable by imprisonment. After the \$500,000 threshold is reached and each fund has acquired \$250,000, CICF receives the remainder of revenue from these fees.

In addition to monies transferred to CICF under the Criminal Injuries Compensation Act, the Comptroller is required to annually transfer \$500,000 to CICF and \$125,000 to VWPRF, which must be in addition to the transfers cited above and which is also drawn from court costs in criminal and traffic cases in the District Court.

Background: Although the revenue from the court costs has been relatively stable (approximately \$3.7 million annually), the amount paid by CICB has increased from \$3.7 million in fiscal 2001 to \$7.4 million in fiscal 2010. DPSCS advises that the fees have not been altered since 1997.

In fiscal 2011, a total of 1,630 claims were filed, of which 1,628 initially met the statutory minimum requirements. In fiscal 2011, CICB ordered \$8.2 million in awards but was only able to disburse \$5.2 million during the fiscal year because of fiscal constraints. An additional \$875,400 was spent on administrative costs. The proposed State budget estimates payments of \$4.8 million for more than 900 awards in fiscal 2013.

The U.S. Department of Justice, through the Victims of Crime Act (VOCA), reimburses states for 60% of funds expended on claims. Federal reimbursements via VOCA average about \$2 million annually.

Recent Fund Balance Concerns

CICF special fund revenues are used to support crime victim compensation as well as CICB operating expenses. As a result of operational improvements enacted between

fiscal 2002 and 2004, including a new automated tracking system, increased staffing, and a more aggressive outreach effort, CICB increased both the number of awards made to crime victims and the amount of State funding used to support this purpose. CICB used the previously available fund balance to help support this growth. As a result, the special fund appropriation for CICB has exceeded annual revenues since fiscal 2005. From fiscal 2009 through 2010, the CICF fund balance had been exhausted.

Chapter 482 of 2010 (the Budget Bill) provided \$570,600 in deficiency funds in fiscal 2009 from the federal American Recovery and Reinvestment Act. To address its fiscal situation, CICB was required to report to the legislative budget committees by October 15, 2010 (among several requirements), on proposed solutions for addressing the fiscal concerns regarding the amount of funding available for making awards to victims of crime, including potential legislation. Failure to comply with the reporting requirement risked the loss of \$6.7 million in State and federal appropriations to the CICF for fiscal 2011. In that report, CICB recommended legislation increasing fee amounts collected by the courts, as well as to “more fully exercise its subrogation rights and utilize the resources available to collect on revenue owed to CICB.”

The most recent legislative audit of CICB, issued February 13, 2012, raised several concerns with the processing of award payments to claimants. The Office of Legislative Audits noted that certain awards made to claimants did not appear to have been made in compliance with State law and the policies of CICB. Supporting documentation was not available for some claims analyzed in a test sample. Access to the CICB electronic claims database was not properly restricted. Also, the CICB practice of not requesting Social Security numbers from claimants limits the ability of CICB to adequately determine the appropriate award for the claimant. CICF awards are subject to reduction to the extent the claimant receives other government assistance, as specified in State law.

Additional Information

Prior Introductions: None.

Cross File: SB 645 (Senator Ramirez, *et al.*) - Judicial Proceedings.

Information Source(s): Governor’s Office of Crime Control and Prevention, Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

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