

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 645 (Senator Ramirez, *et al.*)
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: General fund expenditures for the Judiciary increase by \$9,000 in FY 2013 for computer reprogramming costs. Special fund revenues increase by \$1.5 million annually due to additional revenues generated from court costs and distributed to the Criminal Injuries Compensation Fund (CICF), the State Victims of Crime Fund (SVCF), and the Victim and Witness Protection and Relocation Fund (VWPRF).

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
SF Revenue	\$1,505,500	\$1,505,500	\$1,505,500	\$1,505,500	\$1,505,500
GF Expenditure	\$9,000	\$0	\$0	\$0	\$0
Net Effect	\$1,496,500	\$1,505,500	\$1,505,500	\$1,505,500	\$1,505,500

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: State's Attorneys' offices may have additional revenue for relocation services under the bill's provisions.

Small Business Effect: None.

Analysis

Current Law: 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.

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 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.

State Revenues: Special fund revenues increase by at least \$1.5 million annually, as shown in **Exhibit 1**. Because this bill keeps existing fund allocations constant, in addition to increasing annual revenues for CICF by \$954,054, the bill’s provisions will also increase annual revenues to SVCF by \$461,528 and revenues to VWPRF by \$89,948. In estimating additional special fund revenue for each of these funds, the following assumptions were made:

- court costs will be imposed and collected in 75% of the cases;
- the \$45 fee will be imposed and collected in 1,179 circuit court cases;

- the \$35 fee will be imposed and collected in 34,800 district court cases;
- the \$3 surcharge will be imposed and collected in 78,158 cases, including traffic cases and will be allocated entirely to CICF; and
- out-year special fund revenues remain relatively constant and assume no changes in fees assessed, those subject to the court costs, or distribution.

The Judiciary provided information regarding the numbers of PBJs in District Court cases, including traffic cases. Information regarding the number of PBJs in the circuit courts was not readily available, therefore the estimate above represents only the number of PBJs for which the Division of Parole and Probation opened a supervised case. Accordingly, the estimates for circuit courts are conservative, as it is likely that additional defendants were awarded PBJs, but were not subject to supervised probation. The estimates also do not reflect cases for which a plea of *nolo contendere* was entered, however, imposing costs in those cases is not expected to have a material impact on revenues.

Exhibit 1
Additional Annual Revenues – Court Costs

<u>Case Type</u>	<u>Cases</u>	<u>CICB</u>	<u>SVCF</u>	<u>VWPRF</u>
Circuit Court	1,179	\$23,580	\$26,528	\$2,948
District Court	34,800	696,000	435,000	87,000
Traffic	78,158	234,474	0	0
Total New Special Fund Revenues		\$954,054	\$461,528	\$89,948

For every new District Court case, CICF receives \$20, VWPRF receives \$2.50, and SVCF receives \$12.50. For every new circuit court case, CICF receives \$20, VWPRF receives \$2.50, and SVCF receives \$22.50. Although State law requires that the first \$500,000 from the \$3.00 surcharge in nonincarcerable traffic cases be equally distributed between CICF and SVCF, any revenue in excess of \$500,000 must be distributed only to CICF. Legislative Services advises the \$500,000 threshold is met under current law; thus, all revenues from the surcharge under this bill are allocated to CICF in this estimate.

Additional Information

Prior Introductions: None.

Cross File: HB 453 (Delegate Niemann) - Judiciary.

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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