

Gov Agency: Justice – Reimbursement to Counties for Victims and Witness Services

Recommendations:

Paper No. 189 Alternative A1 & B2

Comments:

A1. Approves the Governor’s recommendation to use penalty assessment dollars for reimbursing counties for victim-witness services for reimbursement.

Counties have seen a lower reimbursement rate for such services in recent years. DOJ estimates a 68% reimbursement rate in 1998-99 compared with a 78% rate in 1997-98.

This alternative would allow DOJ to annually reimburse counties for approximately 73% of their costs.

B2. Maintains current law so VOCA funding and SAVS funding cannot be used to reimburse counties that provide victim and witness services.

Using SAVS & VOCA funding for this purpose would pit counties against sexual assault victims and other crime victim service providers. In addition, federal statutes do not permit VOCA monies to be used for this purpose. DOJ has indicated that it would not exercise the option of using VOCA & SAVS funding for this purpose.

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Joint Committee on Finance

Paper #189

Penalty Assessment Revenue Allocations

Reimbursement to Counties for Victim and Witness Services (Justice)

[LFB 1999-01 Budget Summary: Page 379, #2, 3 and 4]

CURRENT LAW

The Department of Justice (DOJ) reimburses counties for up to 90% of their costs for providing crime victim and witness services, such as court appearance and case progress notification, referrals to crime victim compensation and social services programs, and escort and other transportation services. Under current law, funding is provided from GPR, "part A" of a victim and witness assistance surcharge and a delinquency victim and witness surcharge, and anti-drug monies received from the Office of Justice Assistance (OJA). In addition, DOJ has the authority to use any crime victim and witness assistance surcharge monies not needed in a fiscal year to compensate victims of crime for county reimbursement. Base funding for the program is \$4,605,300 (\$1,497,100 GPR, \$2,257,400 PR from the surcharge revenues and \$850,800 PR from OJA anti-drug monies).

Under current law, a crime victim and witness surcharge is assessed against any person convicted of a misdemeanor (\$50 surcharge) or felony (\$70 surcharge). The initial \$30 of the surcharge for a misdemeanor and \$50 for a felony is termed "part A" of the surcharge and is authorized to fund victim compensation and reimburse counties for providing victim and witness services. The additional \$20 for both misdemeanor and felony violations is termed "part B" and is authorized to fund the sexual assault victim services program.

Currently, DOJ also provides grants with federal Victims of Crime Act (VOCA) funds to public and private nonprofit agencies that provide services for victims of sexual assault, domestic violence, child abuse and personal injury crimes. The adjusted base for the program is \$2,433,000 FED.

The sexual assault victim services program awards grants to nonprofit agencies that provide sexual assault victim services. Base funding for the program is \$1,000,000 PR. Funding is provided from "part B" revenues of the victim and witness assistance surcharge.

GOVERNOR

Provide \$463,600 PR in 1999-00 and \$647,200 PR in 2000-01 for county reimbursement of victim and witness assistance services from the following sources: (a) \$660,800 in 1999-00 and \$773,000 in 2000-01 in a newly-created appropriation funded with penalty assessment revenues; and (b) -\$197,200 in 1999-00 and -\$125,800 in 2000-01 to reflect a reestimate of "part A" victim and witness surcharge and delinquency victim and witness surcharge revenues. Direct the Secretary of Administration to continue to allocate \$850,800 annually in federal Byrne anti-drug law enforcement monies and matching penalty assessment revenues for reimbursing counties that provide crime victim and witness services. Modify the interagency and intra-agency assistance appropriation that receives the anti-drug monies from OJA to specify that the monies may be used to provide reimbursement to counties. Expand the funding sources for county victim-witness services reimbursement by allowing DOJ to use federal VOCA funding and "part B" surcharge revenues for county reimbursement.

[The Governor's recommendation would also provide: (a) \$2,167,000 FED in 1999-00 and \$1,567,000 FED in 2000-01 and 2.0 positions annually to reflect increased federal revenues estimated to be expended under the federal Victims of Crime Act (VOCA); and (b) \$500,000 PR in 1999-00 and \$1,000,000 PR in 2000-01 for the sexual assault victim services program.]

DISCUSSION POINTS

1. DOJ's Office of Crime Victim Services (OCVS) currently reimburses counties for providing victim and witness services with a combination of GPR and program revenues from victim and witness surcharge monies and federal anti-drug abuse monies from OJA. Under the bill, penalty assessment monies would also be provided. In addition to the new penalty assessment funding, the bill would: (a) modify the sexual assault victim services appropriation to allow revenues from "part B" of the victim and witness surcharge to also be used to reimburse counties for the costs of victim and witness services; and (b) authorize county payments from the federal appropriation that receives VOCA monies.

2. Currently, VOCA funding is used for crime victim compensation programs and for subgrants to public or private nonprofit agencies that provide social services to crime victims (as opposed to the county victim and witness services programs, which typically assist victims and witnesses with court proceedings). "Part B" revenues are used to provide grants to nonprofit agencies that provide sexual assault victim services. Services to sexual assault victims include 24-hour crisis lines, legal and medical advocacy, counseling, support groups, community and prevention education, and child care and transportation services.

3. The bill does not identify a method or priority for allocating "part B" funds between the sexual assault victim services program and the county victim and witness reimbursement program, or for allocating the victim assistance VOCA funds. According to DOA, the Governor did not assume that any of these funds would be used for county reimbursements. Instead, the bill gives DOJ the option to use these funding sources to increase state reimbursement to counties.

4. The bill would provide an additional \$3.7 million for the VOCA appropriation and an additional \$1.5 million for the sexual assault victim services appropriation over the biennium. These appropriation increases reflect increases over the current biennium in federal VOCA and "part B" surcharge revenues, respectively. It could be considered appropriate, therefore, to use the increased funding for these victim programs to increase reimbursements to counties for victim-witness services.

5. However, although the Governor's recommendation would provide DOJ with more flexibility in reimbursing counties for the provision of victim and witness services, DOJ indicates that the additional sources of revenue (VOCA monies and "part B" monies) would not be used. According to DOJ officials, the increased expenditure authority will be used to provide a sustainable level of grant funding for sexual assault victim services (SAVS) and the VOCA victim assistance programs.

6. DOJ also indicates that it would not use VOCA funding for county reimbursement because under the federal statute: (a) VOCA monies cannot be used to supplant funding for existing programs; and (b) VOCA monies cannot be used to fund witness services. Providing additional state reimbursement with VOCA funds can be seen as simply shifting the source of funding for existing programs and not providing an expansion of services, as VOCA requires under the supplantation prohibition.

7. Moreover, federal statutes do not permit VOCA monies to be used for witness services, which counties must provide to receive reimbursement under the reimbursement program. Counties must provide the following services to both victims and witnesses to receive reimbursement:

- Court appearance notification services
- Victim compensation and social services referrals, including witness fee collection, case-by-case referrals and public information
- Escort and other transportation services
- Case progress notification services
- Waiting facilities.

8. According to DOJ, there are often more witnesses than victims in a case. In addition, many victims also serve as witnesses in court proceedings. Therefore, it would be difficult to separate victim services from witness services in a county victim-witness office.

9. It could be possible to meet the federal requirements by requiring counties, when requesting to be reimbursed for providing victim-witness services, to: (a) identify new programs (not inflationary increases to existing programs) for which reimbursement is sought; and (b) quantify the amount needed for victim services only within those new programs. As a result, VOCA monies potentially could be used to fund those new programs. This would not, however, result in any increase to the state reimbursement rate for current victim-witness services programs.

10. DOJ indicates it would not use "part B" monies from the victim and witness surcharge because that money is a dedicated source of revenue specifically for sexual assault services. "Part B" of the victim/witness surcharge was created under 1993 Act 16 to provide grants for sexual assault victim services. The Governor's recommendation would allow "part B" revenues to be used to reimburse counties, without a requirement to assure that the funds be used for sexual assault victims. This could be seen as a change in legislative intent in the use of "part B" revenues.

11. According to DOJ, SAVS grants funded with "part B" revenues provide the majority, and in some cases the sole, source of state funding for sexual assault victim services programs throughout the state. DOJ indicates that county victim-witness programs often do not provide sexual assault services because the majority of sexual assault crimes are unreported. As a result, the only agencies from which a victim of sexual assault may seek services are nonprofit agencies that are often supported by SAVS grants. Consequently, DOJ believes that using "part B" revenues to reimburse county victim-witness service programs would reduce the amount of sexual assault services for victims.

12. In his testimony before the Joint Committee on Finance on March 11, 1999, Attorney General Doyle stated that allowing DOJ to use VOCA and "part B" monies for county reimbursement for victim-witness services would pit "counties against sexual assault victims and other crime victim service providers."

13. Since DOJ indicates it would not use VOCA or "part B" surcharge revenues for county reimbursements, the Committee may wish to eliminate the Governor's statutory provisions allowing VOCA and "part B" monies to be used to reimburse counties for providing victim-witness services.

14. The Governor's proposal to provide additional funding sources for county reimbursement responds to the decline in reimbursements provided to counties. Although the statutes allow for state reimbursement of up to 90% of counties' costs, the actual reimbursement rate in most years has generally been lower. The table below illustrates the history of county reimbursement rates for the provision of victim/witness services.

State Reimbursement to Counties

<u>Fiscal Year</u>	<u>Amount of State Reimbursement</u>	<u>Percentage of Counties' Cost Reimbursed</u>	<u>Number of Counties Receiving Reimbursement</u>
1985-86	\$1,228,000	90%	29
1986-87	1,475,400	90	33
1987-88	1,559,100	80	33
1988-89	1,572,900	74	37
1989-90	2,097,100	85	43
1990-91	2,370,600	84	43
1991-92	3,129,400	90	49
1992-93	3,132,000	78	55
1993-94	3,664,900	78	58
1994-95	4,081,600	83	58
1995-96	4,074,100	79	60
1996-97	4,069,100	72	64
1997-98	4,655,000	78	66
1998-99	4,605,300*	68*	68

*Estimated

15. DOJ estimates a 68% reimbursement rate in 1998-99, compared with a 78% reimbursement rate in 1997-98. DOJ attributes the lower reimbursement rate in 1998-99 to: (a) the addition and expansion of victim-witness service programs, in part in response to 1997 Act 181, which expanded the rights of crime victims and witnesses; (b) increasing county costs (the majority of costs associated with victim-witness services are salary and fringe benefit costs); and (c) county victim-witness computer costs associated with the automated district attorney information system (most victim-witness services programs are housed in DA offices).

16. Assuming a 3% annual increase in county victim-witness costs over the biennium, it is estimated that, under the bill, DOJ would be able to reimburse counties for 72.7% of their costs in 1999-00 and for 73.1% of their costs in 2000-01.

17. Alternatively, the Committee may wish to decrease the penalty assessment revenues appropriated for victim-witness services reimbursement. Some counties have resolutions indicating that if the reimbursement rate falls below 70%, the county board will reconsider the existence of the victim-witness services program. If funding were provided to reimburse counties for an estimated 70% of their costs in each year of the biennium, funding could be reduced by \$185,900 PR in 1999-00 and \$223,000 PR in 2000-01.

18. If the Committee wishes to maintain current law and provide no penalty assessment revenue funding for county victim-witness services reimbursement, the penalty assessment appropriation could be deleted, along with \$660,800 PR in 1999-00 and \$773,000 PR in 2000-01. Along with the "part A" revenue reestimate, it is estimated that this would provide funding to reimburse counties for 63% of their costs in 1999-00 and 62% of their costs in 2000-01.

19. The Committee may also wish to increase the percentage reimbursement to counties for providing victim-witness services. It is estimated that an additional \$165,000 PR in 1999-00 and \$140,000 PR in 2000-01 in penalty assessment revenues would allow DOJ to annually reimburse counties for 75% of their costs. An additional \$372,100 PR in 1999-00 and \$351,800 PR in 2000-01 in penalty assessment revenues would allow DOJ to annually reimburse counties for 78% of their costs.

ALTERNATIVES

A. Funding

1. Approve the Governor's recommendation to: (a) provide \$660,800 PR in 1999-00 and \$773,000 PR in 2000-01 in a newly-created appropriation funded with penalty assessment revenues; (b) delete \$197,200 PR in 1999-00 and \$125,800 PR in 2000-01 to reflect a reestimate of "part A" victim and witness surcharge and delinquency victim and witness surcharge revenues; (c) direct the Secretary of Administration to continue to allocate \$850,800 annually in federal Byrne anti-drug law enforcement monies and matching penalty assessment revenues for reimbursing counties that provide crime victim and witness services; and (d) modify the interagency and intra-agency assistance appropriation that receives the anti-drug monies from OJA to specify that the monies may be used to provide reimbursement to counties. It is estimated that the Governor's recommendation would allow DOJ to annually reimburse counties for approximately 73% of their costs.

2. Modify the Governor's recommendation by reducing the newly-created appropriation funded with penalty assessment revenues by \$185,900 PR in 1999-00 and \$223,000 PR in 2000-01. It is estimated that this alternative would allow DOJ to annually reimburse counties for approximately 70% of their costs.

<u>Alternative A2</u>	<u>PR</u>
1999-01 FUNDING (Change to Bill)	- \$408,900

3. Delete \$660,800 PR in 1999-00 and \$773,000 PR in 2000-01 and delete the penalty assessment appropriation. It is estimated that this alternative would allow DOJ to reimburse counties for 63% of their costs in 1999-00 and 62% of their costs in 2000-01.

<u>Alternative A3</u>	<u>PR</u>
1999-01 FUNDING (Change to Bill)	- \$1,433,800

4. Provide \$165,000 PR in 1999-00 and \$140,000 PR in 2000-01 to allow DOJ to annually reimburse counties for 75% of the costs relating to providing victim and witness services.

<u>Alternative A4</u>	<u>PR</u>
1999-01 FUNDING (Change to Bill)	\$305,000

5. Provide \$372,100 PR in 1999-00 and \$351,800 PR in 2000-01 to allow DOJ to annually reimburse counties for 78% of the costs relating to providing victim and witness services.

<u>Alternative A5</u>	<u>PR</u>
1999-01 FUNDING (Change to Bill)	\$723,900

B. Use of VOCA and "Part B" Funds

1. Approve the Governor's recommendation to give DOJ the authority to use federal VOCA funding and "part B" funds from the victim and witness surcharge for reimbursement to counties that provide victim and witness services.

2. Maintain current law.

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