



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #466

Reimbursement for County Victim and Witness Assistance Programs (Justice)

[LFB 2005-07 Budget Summary: Page 323, #12]

CURRENT LAW

Counties are eligible to receive reimbursement from the state for not more than 90% of the costs incurred in providing victim and witness services. To be eligible for reimbursement, a county must provide all of the following services to victims and witnesses: (1) court appearance notification services, including cancellation of appearances; (2) victim compensation and social services referrals, including witness fee collection, case-by-case referrals and public information; (3) escort and other transportation services related to the investigation or prosecution of the case, if necessary or advisable; (4) case progress notification services which may be combined with court appearance notification services; (5) assistance in providing the court with information pertaining to the economic, physical and psychological effect of the crime upon the victim of a felony; (6) employer intercession services; (7) expedited return of property services; (8) protection services; (9) family support services; and (10) waiting facilities.

A crime victim and witness surcharge is assessed against any person who is convicted of a misdemeanor or felony violation of state law. A surcharge of \$50 is assessed for each misdemeanor offense or count, and a surcharge of \$70 is assessed for each felony offense or count. The initial \$30 assessed for a misdemeanor and the initial \$50 assessed for a felony is termed "Part A" of the surcharge. The additional \$20 assessed for both a misdemeanor and a felony is termed "Part B" of the surcharge. Part A revenues fund county victim and witness services programs and compensation awards to crime victims. Part B revenues provide funding for the sexual assault victim services program.

In 2004-05, \$5,608,700 (all funds) is budgeted to reimburse counties for victim and witness services: (1) \$2,566,600 PR in crime victim and witness surcharge funding; (2) \$1,422,200 GPR; (3) \$850,800 PR in federal Byrne anti-drug grant funds and associated state penalty surcharge match funding; and (4) \$769,100 PR in additional penalty surcharge funding.

GOVERNOR

Increase "Part A" of the surcharge from the current \$30 for each misdemeanor offense to \$40 and from the current \$50 for each felony offense to \$65. The Governor estimates that the recommended increases would produce additional revenues of \$360,000 PR-REV in 2005-06 and \$848,800 PR-REV in 2006-07. The recommended surcharge change would first apply to moneys collected on and after the general effective date of the biennial budget act.

Provide \$640,000 PR in 2006-07 under the Department of Justice (DOJ) general services appropriation that funds counties for up to 90% of their victim and witness assistance program costs. These additional amounts would be funded from the increased "Part A" crime victim and witness surcharge revenues.

DISCUSSION POINTS

1. Under current law, counties are eligible to receive reimbursement from the state for not more than 90% of the costs incurred in providing victim and witness services. By rule, the following categories of county costs are reimbursable under the program: (a) salaries and benefits; (b) overtime and night differentials; (c) travel expenses; (d) space rental; (e) staff development activities; (f) public information; (g) telephone costs; (h) maintenance, repair and replacement of equipment; (i) office supplies; (j) property and equipment with a useful life exceeding one year and costing more than \$500; and (k) contractual services.

2. In 2003-04, counties reported aggregate costs of \$8,671,700 under the program. DOJ does not separately account for reported county costs by the 11 reimbursable expense categories cited above.

3. To receive reimbursement, a county board must file a reimbursement claim with DOJ, which, in turn, determines the level of services for which a county may be reimbursed. DOJ bases this determination on a county's level of staffing for the program.

4. The actual percentage of county costs that is reimbursed varies each year depending upon the availability of state funds, the costs of the counties' programs, and the number of counties operating approved programs. Table 1 summarizes: (a) the total reported annual county costs during each of the last 10 fiscal years of those counties participating in the program; (b) the total annual state reimbursements; (c) the percentage of county costs actually reimbursed; and (d) the number of counties receiving reimbursement for victim and witness assistance services costs.

TABLE 1

State Victim and Witness Assistance Reimbursement to Counties

| <u>Fiscal Year</u> | <u>Reported County Costs</u> | <u>Amount of State Reimbursement</u> | <u>Percentage of Counties' Cost Reimbursed</u> | <u>Number of Counties Receiving Reimbursement</u> |
|--------------------|----------------------------------|--|--|---|
| 1994-95 | \$4,930,900 | \$4,081,600 | 83% | 58 |
| 1995-96 | 5,186,400 | 4,074,100 | 79 | 60 |
| 1996-97 | 5,652,100 | 4,069,100 | 72 | 64 |
| 1997-98 | 5,994,000 | 4,655,000 | 78 | 66 |
| 1998-99 | 6,622,500 | 4,772,000 | 72 | 68 |
| 1999-00 | 7,287,900 | 5,044,700 | 69 | 70 |
| 2000-01 | 7,883,900 | 5,325,100 | 68 | 70 |
| 2001-02 | 8,296,500 | 5,483,500 | 66 | 70 |
| 2002-03 | 8,626,400 | 5,348,400 | 62 | 70 |
| 2003-04 | 8,671,700 | 5,203,000 | 60 | 70 |

5. Of the \$5,608,700 (all funds) budgeted to DOJ in 2004-05 to reimburse counties for victim and witness services, \$850,800 PR derives from federal Byrne anti-drug grant funds and associated state penalty surcharge match funding. Under the federal budget for federal fiscal year (FFY) 2005, the Byrne Formula and the Local Law Enforcement Block Grant programs have been replaced with the new Edward Byrne Memorial Justice Assistance Grant Program. The state's FFY 2005 Justice Assistance Grant award has been reduced by approximately 52%. As a result, AB 100 reduces from \$850,800 PR annually to \$444,400 PR annually the amounts provided from Justice Assistance Grant awards and penalty surcharge funding for reimbursement of county costs for victim and witness services.

6. In order to maintain county reimbursement funding for these services in light of the federal Byrne fund reductions, the Governor has recommended increasing Part A of the crime victim and witness surcharge by approximately 30%, from the current \$30 for each misdemeanor offense to \$40 and from the current \$50 for each felony offense to \$65. These increases would partially offset the Byrne funding reductions. The Governor estimates that Part A revenues would increase \$418,600 in 2005-06 to \$3,249,100 (a 14.8% increase) and \$1,336,400 in 2006-07 to \$4,166,900 (a further 28.3% increase). These increases are attributable to the underlying projected growth in the existing surcharge (\$58,600 in 2005-06 and \$69,000 in 2006-07) and to additional surcharge amounts associated with the recommended rate increase (\$360,000 in 2005-06 and \$1,267,400 in 2006-07).

7. AB 100 further provides an additional \$640,000 PR in 2006-07 under DOJ's general services appropriation to fund additional payments to counties for up to 90% of their victim and witness assistance program costs. These additional amounts would be funded from the increased

"Part A" crime victim and witness surcharge revenues. Table 2 summarizes the fund condition for appropriations currently supported by Part A revenues during 2004-05 and under the provisions of AB 100.

TABLE 2

**Part A Surcharge Revenue Balances
(2004-05 through 2006-07)**

| | <u>2004-05</u> | <u>2005-06</u> | <u>2006-07</u> |
|---|----------------|----------------|----------------|
| Opening Balance | -\$346,700 | -\$571,600 | -\$377,900 |
| Revenue | | | |
| "Part A" Revenue | 2,830,500 | 3,249,100 | 4,166,900 |
| Expenditures | | | |
| Victim and Witness Surcharge General Services | 2,566,600 | 2,566,600 | 3,206,600 |
| Victim Payments from Victim Surcharge | <u>488,800</u> | <u>488,800</u> | <u>488,800</u> |
| Total Expenditures | 3,055,400 | 3,055,400 | 3,695,400 |
| Closing Balance | -\$571,600 | -\$377,900 | \$93,600 |

8. The degree to which the Governor's Part A surcharge revenue projections are likely to be realized will have an important bearing on the state's ability to reimburse county victim and witness services costs from this funding source. The following table identifies victim and witness surcharge revenues collected over the last five fiscal years, identifying Part A revenues, Part B revenues, total victim and witness surcharge revenue, and Part B revenue as a percent of total victim and witness surcharge revenue. During this period, Part B revenues comprised approximately 35% of all victim and witness surcharge revenues. Further, victim and witness surcharge revenues have not shown a clear growth trend in recent years.

| <u>Fiscal Year</u> | <u>Part A</u> | <u>Part B</u> | <u>Total</u> | <u>Part B %</u> |
|--------------------|---------------|---------------|--------------|-----------------|
| 1999-00 | \$2,652,100 | \$1,456,800 | \$4,108,900 | 35.45% |
| 2000-01 | 2,326,300 | 1,307,100 | 3,633,400 | 35.97 |
| 2001-02 | 2,985,600 | 1,626,400 | 4,612,000 | 35.26 |
| 2002-03 | 2,816,600 | 1,473,600 | 4,290,200 | 34.35 |
| 2003-04 | 2,773,400 | 1,582,900 | 4,356,300 | 36.34 |

9. The victim and witness surcharge was last increased under 1993 Wisconsin Act 16, which created Part B of the surcharge, and increased the surcharge from \$30 to \$50 for a misdemeanor offense and from \$50 to \$70 for a felony offense. For state fiscal years 1993-94 through 1997-98, the revenues collected from Part A of the surcharge, from Part B of the surcharge, total victim and witness surcharge revenue, and Part B revenue as a percent of total victim and

witness surcharge revenue were as follows:

| <u>Fiscal Year</u> | <u>Part A</u> | <u>Part B</u> | <u>Total</u> | <u>Part B %</u> |
|--------------------|---------------|---------------|--------------|-----------------|
| 1993-94 | \$1,874,600 | \$66,500 | \$1,941,100 | 3.43% |
| 1994-95 | 2,167,500 | 412,500 | 2,580,000 | 15.99 |
| 1995-96 | 2,217,900 | 755,800 | 2,973,700 | 25.42 |
| 1996-97 | 2,271,800 | 970,300 | 3,242,100 | 29.93 |
| 1997-98 | 2,279,400 | 1,117,800 | 3,397,200 | 32.90 |

10. Based on this earlier experience, it took approximately five years for the increase to the surcharge from the creation of the Part B portion to be fully realized. While Part B revenues have averaged approximately 35% of total victim and witness surcharge revenues since that time, it was not until 1997-98 (five years after the creation of the Part B portion of the surcharge) that Part B revenues first approached this level. It should be noted, however, that approximately half of the revenue growth from the fully implemented Part B portion of the surcharge was being recognized by the second year after the increase.

11. Under the provisions of AB 100, Part A of the victim and witness surcharge would be increased by approximately 30%. Based on the prior history of revenue increases following the creation of Part B of the surcharge and based on discussions with DOJ staff, it is estimated that one-quarter of the revenue growth from this surcharge increase will likely be realized in 2005-06 (a 7.5% increase over 2004-05 projected revenue), and that one-half of the revenue growth from this surcharge increase will likely be realized in 2006-07 (a 15% increase over 2004-05 projected revenue). No additional Part A revenue growth due to additional court actions or improved collections is estimated. Table 3 summarizes the revised fund condition for appropriations supported by Part A revenues based on this analysis.

TABLE 3
Revised Part A Surcharge Revenue Balances
(2004-05 through 2006-07)

| | <u>2004-05</u> | <u>2005-06</u> | <u>2006-07</u> |
|---|----------------|----------------|----------------|
| Opening Balance | -\$346,700 | -\$571,600 | -\$584,200 |
| Revenue | | | |
| "Part A" Revenues | 2,830,500 | 3,042,800 | 3,255,100 |
| Expenditures | | | |
| Victim and Witness Surcharge General Services | 2,566,600 | 2,566,600 | 3,206,600 |
| Victim Payments from Victim Surcharge | <u>488,800</u> | <u>488,800</u> | <u>488,800</u> |
| Total Expenditures | 3,055,400 | 3,055,400 | 3,695,400 |
| Closing Balance | -\$571,600 | -\$584,200 | -\$1,024,500 |

12. In light of the steady decline in the percentage of county victim-witness services program costs reimbursed by the state over the last seven years as shown in Table 1, and given the budgeted reductions under AB 100 relating to Byrne funding for these reimbursements, the Committee could consider approving the Governor's recommendation to increase Part A of the crime victim and witness surcharge. Under such an action, however, it is still anticipated that a growing deficit would occur in the Part A surcharge account. It is unlikely that Part A revenue growth from the surcharge increase in the 2007-09 biennium would be sufficient to liquidate the deficit.

13. Under the provisions of AB 100, the Department's Part A surcharge revenue-funded general services appropriation that makes payments to counties would also be increased by \$640,000 PR in 2006-07 to reimburse counties for up to 90% of their victim and witness program costs. Given the projected fund condition for appropriations supported by Part A revenues, however, the Committee could also consider approving the surcharge increase but deleting the increase in expenditure authority at this time. Table 4 summarizes the fund condition for appropriations supported by Part A revenues if this alternative was adopted. Under this approach, the deficit in appropriations supported by Part A revenues could be reduced from \$571,600 in 2004-05 to \$384,500 in 2006-07. As revenue growth from the surcharge increase would continue to be realized by the state during the 2007-09 biennium, it is likely that expenditure authority for these county reimbursements could be increased during this subsequent biennium.

TABLE 4

**Part A Surcharge Revenue Balances with No Expenditure Increase
(2004-05 through 2006-07)**

| | <u>2004-05</u> | <u>2005-06</u> | <u>2006-07</u> |
|---|----------------|----------------|----------------|
| Opening Balance | -\$346,700 | -\$571,600 | -\$584,200 |
| Revenue | | | |
| "Part A" Revenue | 2,830,500 | 3,042,800 | 3,255,100 |
| Expenditures | | | |
| Victim and Witness Surcharge General Services | 2,566,600 | 2,566,600 | 2,566,600 |
| Victim Payments from Victim Surcharge | <u>488,800</u> | <u>488,800</u> | <u>488,800</u> |
| Total Expenditures | 3,055,400 | 3,055,400 | 3,055,400 |
| Closing Balance | -\$571,600 | -\$584,200 | -\$384,500 |

14. If Part A of the surcharge were increased approximately 60% (instead of 30% as under the bill) from the current \$30 for each misdemeanor offense to \$50 and from the current \$50 for each felony offense to \$80, it is estimated that sufficient revenues would be generated to support the additional \$640,000 PR in expenditure authority in 2006-07 provided under the bill for county victim and witness program costs. Such an action would reverse the growing deficit in the Part A

surcharge account. However, if both a 60% increase to Part A of the surcharge and the recommended \$640,000 PR increase in expenditure authority in 2006-07 were approved, there would still be a deficit estimated at \$387,600 by the end of the 2005-07 biennium in appropriations supported by Part A of the surcharge.

15. Alternatively, in an effort to minimize court surcharge increases, the Committee could also consider deleting both the surcharge increase under AB 100 as well as the recommended increase in expenditure authority of \$640,000 PR in 2006-07, funded from the surcharge increase. It should be noted, however, that the current surcharge would continue to be assessed at current law levels on misdemeanants and felons to support court-related services for victims and witnesses. However, the deficit in appropriations supported by Part A revenues would be estimated at \$796,500 at the end of 2005-06 and \$1,021,400 at the end of 2006-07 under this alternative.

ALTERNATIVES

1. Approve the Governor's recommendation to increase "Part A" of the crime victim and witness surcharge from the current \$30 for each misdemeanor offense to \$40 and from the current \$50 for each felony offense to \$65. Provide \$640,000 PR in 2006-07 under the Department of Justice's general services appropriation that makes payments to counties for up to 90% of their victim and witness assistance program costs.

2. Modify Alternative 1 by deleting the increase of \$640,000 PR in additional expenditure authority in 2006-07 to the Department's general services appropriation that makes payments to counties for up to 90% of their victim and witness assistance program costs.

| | |
|---|-------------|
| Alternative 2 | PR |
| 2005-07 FUNDING (Change to Bill) | - \$640,000 |

3. Delete provision.

| | |
|---|-------------|
| Alternative 3 | PR |
| 2005-07 FUNDING (Change to Bill) | - \$640,000 |

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