



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #500

### Crime Victim Compensation Award Funding (Justice)

#### *Base Agency*

[LFB 2007-09 Budget Summary: Page 371, #6]

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#### **CURRENT LAW**

The crime victim compensation program compensates victims and their dependents for the cost of medical treatment (both physical and mental), lost wages, funeral and burial expenses, loss of support to dependents of a deceased victim, and replacement costs of any clothing or bedding that is held for evidentiary purposes. In addition, victims who are homemakers may be compensated for expenses related to securing homemaker services when someone must be hired to perform these services. The maximum award for any one injury or death is \$40,000. This amount is in addition to a \$2,000 maximum reimbursement of burial expenses that may be awarded. In 2006-07, \$2,390,700 (\$1,258,000 GPR, \$643,900 FED and \$488,800 PR) is budgeted under this program to make awards to victims of crime. The program is funded from GPR, from part "A" of the crime victim and witness assistance surcharge and from federal Victim of Crime Act (VOCA) grants.

#### **GOVERNOR**

Specify the following changes to the crime victim compensation program:

a. *Restitution Payment Revenues from the General Fund.* Provide that restitution payments received by the state from defendants to offset awards made to victims under the crime victim compensation program would no longer be deposited to the general fund but instead would be credited to a new, PR appropriation created under the Department of Justice (DOJ). Under current law, approximately \$300,000 annually is credited to the general fund from

restitution payments. The recommended crediting of these funds to the new program revenue account would result in a corresponding general fund revenue decrease of \$300,000 annually.

b. *Victim Compensation Restitution Appropriation Created.* Create a PR continuing crime victim restitution appropriation to receive these restitution payments and provide expenditure authority of \$300,000 PR annually. Authorize DOJ to expend these funds to provide crime victim restitution.

c. *Federal Victims of Crime Act Funding.* Federal VOCA funds are made available to match 60% of state funding for crime victim compensation. The Governor estimates that providing an additional \$300,000 PR in state crime victim compensation funding in 2007-08, will permit the state to receive an additional \$180,000 FED in VOCA funding in 2008-09.

## **DISCUSSION POINTS**

1. Restitution is generally understood to be compensation or reparation for the loss caused to another. Under current law, when a convicted criminal defendant is ordered to pay restitution to a victim, the court must inquire to see if DOJ has paid an award under the crime victim compensation program. If the restitution ordered is less than or equal to the crime victim compensation award received by the victim, the restitution award must be paid, in its entirety, to the general fund. If the restitution ordered is greater than the crime victim compensation award, the general fund must receive an amount equal to the award, and the balance of the ordered restitution must be paid to the victim. Over the last three completed state fiscal years, an average of \$300,000 annually in restitution payments have been deposited to the general fund.

2. In 2005-06, DOJ made monetary awards to crime victims under the crime victim compensation program totaling \$2,762,700, including \$1,258,000 GPR, \$1,015,900 FED in federal VOCA funding, and \$488,800 PR in part "A" crime victim and witness assistance surcharge revenues. While the level of provided state funding has not increased in recent years, additional federal funds have been available to make awards due to federal VOCA changes.

3. Previously, federal VOCA funds were made available to match 40% of state funding for crime victim compensation. The federal VOCA program has now been modified to match 60% of state funding for crime victim compensation. As a result, while DOJ allocated \$582,200 FED in VOCA funds for crime victim awards in 2001-02, by 2005-06, this amount had increased to \$1,015,900 FED in VOCA funds for these awards.

4. Nonetheless, DOJ staff indicates that it has become increasingly difficult to meet the Department's obligations to victims under the crime victim compensation program. As of the end of February, the Department had already fully paid out the GPR and PR funding for crime victim awards for 2006-07 (\$1,258,000 GPR and \$488,800 PR), and had awarded \$713,700 FED in funding for victim awards (compared to \$1,015,900 FED for all of 2005-06). In early March, Department staff determined that there was \$1,851,600 in unpaid eligible claims yet to be paid out under the program. The Committee should note that individual victim claims are not prorated under

the program.

5. Under current law, the state provides \$1,258,000 GPR annually to make awards to victims under the crime victim compensation program. Current law also provides that if a victim subsequently receives a restitution award from the defendant after conviction, that the value of this restitution award, up to the value of the crime victim compensation award received by the victim from DOJ, be deposited to the general fund. It could be argued that current law requires defendants to reimburse the state for awards made by the state to compensate victims for harm caused by defendants.

6. The provisions of SB 40 would modify current law to provide that restitution payment amounts, up to the award provided, would now be deposited to a PR continuing crime victim restitution appropriation instead of being deposited to the general fund. It is estimated that this change would result in an additional \$300,000 PR annually being made available for crime victim compensation awards, with an offsetting loss of revenue to the general fund of \$300,000 GPR annually as these payments would no longer be deposited to the general fund. It is further estimated that the additional \$300,000 PR in state funding provided in 2007-08, would permit the state to receive an additional \$180,000 FED in VOCA funding in 2008-09.

7. Adopting the Governor's recommendation for the crime victim compensation program would permit DOJ to provide an additional \$780,000 (all funds) in awards to victims during 2007-09. The additional funding could potentially decrease the time some victims must wait to receive their full awards from the program. While victim awards are not prorated under the program, victims receiving awards totaling more than \$10,000 will be paid a maximum amount of \$10,000 per year until the award is fully paid (except in the case of lost wages).

8. Alternatively, it could be argued that it is appropriate to deposit defendant restitution payments to the general fund to reimburse the state for awards made by the state to victims to offset damages caused by the defendant. Approving the provisions of SB 40 would decrease the general fund balance by \$300,000 GPR annually.

9. In lieu of providing that all defendant restitution payments subject to these provisions be deposited to a new PR continuing, crime victim restitution appropriation, the Committee could also consider providing that either 75%, 50%, or 25% of these restitution payments be deposited to the new PR appropriation. The following table identifies the additional PR and FED revenue that could be provided for crime victim awards under these alternatives.

**Additional Funding for Victim Awards if 75%, 50%, or 25% of Defendant Restitution Payments Are Deposited to the Recommended PR Appropriation**

<u>% to PR Appropriation</u>	<u>PR 2007-08</u>	<u>PR 2008-09</u>	<u>FED 2008-09</u>	<u>Total 2007-09</u>
75%	\$225,000	\$225,000	\$135,000	\$585,000
50%	150,000	150,000	90,000	390,000
25%	75,000	75,000	45,000	195,000

10. Under each of the above alternatives, general fund revenue would increase compared to the bill as follows: with 75% of restitution payments deposited to the PR appropriation, GPR-REV would increase by \$75,000 annually compared to the bill (-\$225,000 annually to base); at 50%, \$150,000 annually (-\$150,000 annually to base); and at 25%, \$225,000 annually (-\$75,000 annually to base).

**ALTERNATIVES TO BASE**

1. Approve the Governor's recommendation to credit restitution payments received by the state from defendants to a new PR continuing, crime victim restitution appropriation, and provide expenditure authority of \$300,000 PR annually. These restitution payments are received to offset awards made to victims under the crime victim compensation program.

<b>ALT 1</b>	<b>Change to Bill</b>		<b>Change to Base</b>	
	Revenue	Funding	Revenue	Funding
GPR	\$0	\$0	-\$600,000	\$0
FED	0	0	0	180,000
PR	<u>0</u>	<u>0</u>	<u>600,000</u>	<u>600,000</u>
Total	\$0	\$0	\$0	\$780,000

2. Modify the provisions of SB 40 by crediting 75% of restitution payments received by the state from defendants to the PR crime victim restitution appropriation, and providing \$225,000 PR annually in expenditure authority. Under this alternative, \$75,000 annually in defendant restitution payments would continue to be deposited to the general fund.

<b>ALT 2</b>	<b>Change to Bill</b>		<b>Change to Base</b>	
	Revenue	Funding	Revenue	Funding
GPR	\$150,000	\$0	-\$450,000	\$0
FED	0	- 45,000	0	135,000
PR	<u>- 150,000</u>	<u>- 150,000</u>	<u>450,000</u>	<u>450,000</u>
Total	\$0	-\$195,000	\$0	\$585,000

3. Modify the provisions of SB 40 by crediting 50% of restitution payments received by the state from defendants to the PR crime victim restitution appropriation, and providing \$150,000 PR annually in expenditure authority. Under this alternative, \$150,000 annually in defendant restitution payments would continue to be deposited to the general fund.

ALT 3	Change to Bill		Change to Base	
	Revenue	Funding	Revenue	Funding
GPR	\$300,000	\$0	-\$300,000	\$0
FED	0	-90,000	0	90,000
PR	<u>-300,000</u>	<u>-300,000</u>	<u>300,000</u>	<u>300,000</u>
Total	\$0	-\$390,000	\$0	\$390,000

4. Modify the provisions of SB 40 by crediting 25% of restitution payments received by the state from defendants to the PR crime victim restitution appropriation, and providing \$75,000 PR annually in expenditure authority. Under this alternative, \$225,000 annually in defendant restitution payments would continue to be deposited to the general fund.

ALT 4	Change to Bill		Change to Base	
	Revenue	Funding	Revenue	Funding
GPR	\$450,000	\$0	-\$150,000	\$0
FED	0	-135,000	0	45,000
PR	<u>-450,000</u>	<u>-450,000</u>	<u>150,000</u>	<u>150,000</u>
Total	\$0	-\$585,000	\$0	\$195,000

5. Maintain current law.

ALT 5	Change to Bill		Change to Base	
	Revenue	Funding	Revenue	Funding
GPR	\$600,000	\$0	\$0	\$0
FED	0	-180,000	0	0
PR	<u>-600,000</u>	<u>-600,000</u>	<u>0</u>	<u>0</u>
Total	\$0	-\$780,000	\$0	\$0

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