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Joint Committee on Finance

Paper #416

Crime Victim and Witness Program Funding (Justice -- Victim and Witness Programs)

[LFB 2013-15 Budget Summary: Page 291, #2, Page 292, #3, Page 293, #4 and #5]

CURRENT LAW

Crime Victim and Witness Surcharge. The crime victim and witness surcharge is assessed against any person who is convicted of a misdemeanor or felony violation of state law. The amount of the surcharge is \$67 for each misdemeanor offense and \$92 for each felony offense. The crime victim and witness surcharge is comprised of three parts, Part A, Part B, and Part C.

Part A of the surcharge equals \$40 for each misdemeanor offense and \$65 for each felony offense. Part A of the surcharge funds reimbursements to counties for victim and witness services as well as crime victim compensation payments. Part B of the surcharge equals \$20 for each misdemeanor or felony offense. Part B of the surcharge funds the sexual assault victim services grant program. Part C of the surcharge equals \$7 for each misdemeanor or felony offense. Part C provides additional funding for victim and witness services and crime victim compensation. An individual must pay the amount due under Part A before paying the amount due under Part B. Likewise, an individual must pay the amount due under Parts A and B before paying the amount due under Part C.

The surcharge is also imposed on civil offenses if: (a) a person is charged with one or more crimes in a complaint; and (b) as a result of the complaint being amended, the person is charged with a civil offense in lieu of one of those crimes. The amount of the surcharge applied to the civil offense is based on whether the original underlying charge was a felony charge (in which case a \$92 surcharge would be assessed), or a misdemeanor charge (in which case a \$67 surcharge would be assessed). Surcharge revenue from civil offenses is allocated to Part A and is available to fund victim and witness services and crime victim compensation.

County Victim and Witness Program Funding. 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: (a) court appearance notification services, including cancellation of appearances; (b) victim compensation and social services referrals, including witness fee collection, case-by-case referrals and public information; (c) escort and other transportation services related to the investigation or prosecution of the case, if necessary or advisable; (d) case progress notification services which may be combined with court appearance notification services; (e) assistance in providing the court with information pertaining to the economic, physical and psychological effect of the crime upon the victim of a felony; (f) employer intercession services; (g) expedited return of property services; (h) protection services; (i) family support services; and (j) waiting facilities. For 2012-13, the Department of Justice (DOJ) plans to expend \$4,573,900 to provide reimbursements to counties for victim and witness services (\$1,201,200 GPR, \$2,623,800 PR in crime victim and witness surcharge revenue, and \$748,900 in penalty surcharge funding).

Crime Victim Compensation. The crime victim compensation program compensates victims and the dependents of deceased victims for the cost of medical treatment (both physical and mental), lost wages, crime scene cleanup costs, funeral and burial expenses, and replacement costs of property held for evidentiary purposes. Dependents of a deceased victim may also be compensated for their economic loss, including loss of support. In addition, victims who are homemakers may be compensated for expenses relating to securing homemaker 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. For 2012-13, \$3,105,800 (\$1,120,900 GPR, \$823,900 FED, \$893,700 PR in crime victim and witness surcharge revenue, and \$267,300 PR in restitution funding) is budgeted to make awards to victims of crime.

Sexual Assault Victim Services Grant Program. Under 1993 Act 16, a sexual assault victim services grant program was created, beginning January 1, 1995. Grants are provided by DOJ to eligible nonprofit corporations or public agencies to provide (or subcontract to provide) all the following services for sexual assault victims: (a) advocacy and counseling services; (b) 24-hour crisis telephone service; (c) educational programs on professional intervention and community prevention; and (d) services for persons living in rural areas, men, children, elderly or physically disabled persons, minority groups or other groups of victims that have special needs within the service area of the nonprofit corporation or public agency.

An eligible organization may not receive more than 70% of its operating budget from grants provided under this program and may not contract, subcontract or enter into agreements with other organizations or individuals to provide all of the required services. When DOJ reviews grant applications, it must consider local needs for sexual assault victim services, the coordination of the applicant's services with other victim resources, the needs of rural and urban communities, and the needs of existing and proposed programs and services. For 2012-13, \$1,815,100 PR in crime victim and witness surcharge revenue is budgeted for grants and administration of the program.

GOVERNOR

Crime Victim and Witness Surcharge. Delete the differentiation of Parts A, B, and C of the crime victim and witness surcharge, and provide that all crime victim and witness surcharge revenue be used to provide reimbursements to counties for their victim and witness service programs. [While the bill would eliminate the differentiation between Parts A, B, and C of the surcharge, under the bill the crime victim and witness surcharge would remain at \$67 for each misdemeanor offense and \$92 for each felony offense.]

County Victim and Witness Program Funding. Delete the GPR annual reimbursement for victim and witness services appropriation and its associated base funding of \$1,267,200 GPR annually, which is utilized to reimburse counties for the costs of providing services to victims and witnesses.

Provide \$2,675,700 PR annually to the crime victim and witness assistance surcharge appropriation to reimburse counties for the costs of providing services to victims and witnesses. Eliminate transfers out of the PR crime victim and witness assistance surcharge appropriation and delete: (a) the victim payments, victim surcharge appropriation which funds crime victim compensation awards from crime victim and witness surcharge revenue; and (b) the reimbursement to counties for providing victim and witness services appropriation from which additional reimbursement payments to counties for their victim and witness programs may be made.

Crime Victim Compensation. Delete the victim payments, victim surcharge appropriation and its base funding of \$893,700 PR annually, which provides funding for crime victim compensation awards. [Under current law, this appropriation is supported by Parts A and C of the crime victim and witness surcharge.]

Instead, provide \$1,267,200 GPR annually to provide increased funding for crime victim compensation awards.

Sexual Assault Victim Services Grant Program. Delete the PR continuing crime victim and witness surcharge, sexual assault victim services appropriation. Remove base funding and position authority of \$1,815,100 PR and 0.4 PR position annually, which provides grants to nonprofit organizations and public agencies (\$1,782,000 annually) and program staffing support in DOJ (\$33,100 annually).

Create a GPR annual sexual assault victim services appropriation and provide \$2,033,200 GPR and 0.4 GPR position annually to this appropriation. The following funding would be provided: (a) \$2,000,000 annually for local assistance grant funding to nonprofit organizations and public agencies which provide services to sexual assault victims; (b) \$23,200 annually for permanent position salary funding; (c) \$8,900 annually for fringe benefits funding; (d) \$500 annually for supplies and services funding; and (e) \$600 annually for rent costs.

DISCUSSION POINTS

1. The provisions of 2009 Act 28 made a series of changes to crime victim and witness program funding. First, Act 28 increased the crime victim and witness surcharge by \$7 for each misdemeanor or felony violation. [At the time the increase was applied to Part B of the surcharge.] Under the Act, it was estimated that this surcharge increase would generate additional revenue of \$138,900 PR in 2009-10, and \$277,800 PR in 2010-11.

2. Further, Act 28 provided the following additional expenditure authority supported by the crime victim and witness surcharge: (a) \$515,700 PR in 2009-10, and \$1,108,800 in 2010-11, to increase the amounts available to reimburse counties for up to 90% of their victim and witness assistance program costs; and (b) \$312,700 PR in 2009-10, and \$509,100 in 2010-11, to increase the amounts available to compensate crime victims under the crime victim compensation program. While it was estimated that there would be sufficient funding to support this level of expenditure authority during the 2009-11 biennium, it was estimated that much of the funding to support this additional expenditure authority would come from spending down available fund balances during 2009-11. Under Act 28 it was estimated that the crime victim and witness surcharge fund would carry over \$2,385,300 in uncommitted revenue balances from the 2007-09 biennium.

3. While modest revenue growth for the crime victim and witness surcharge was estimated under 2009 Act 28 as a result of the \$7 surcharge increase, this revenue growth did not materialize. As Table 1 indicates, revenue from the crime victim and witness surcharge has declined each fiscal year after 2008-09. While annual revenue before the surcharge increase totaled \$5,973,800 PR in 2008-09, in 2011-12 annual revenue from the surcharge had declined to \$5,669,700 PR. Annual revenue from the surcharge is estimated to decline to \$5,523,500 PR for 2012-13.

TABLE 1

Crime Victim and Witness Surcharge Revenue

<u>Fiscal Year</u>	<u>Grand Total</u>
2008-09	\$5,973,800
2009-10	5,846,100
2010-11	5,764,000
2011-12	5,669,700

4. In its audit of August, 2012, the Legislative Audit Bureau (LAB) reviewed possible reasons for the decline in crime victim and witness surcharge revenue. The LAB cited three factors in particular as possibly contributing to the revenue decline including: (a) decreasing criminal charges and convictions; (b) the extent to which assessed surcharges were unpaid; and (c) statewide economic trends. In addition, in responding to the audit DOJ identified additional factors that it believed could contribute to surcharge revenue declines including: (a) declining victim witness surcharge assessments in juvenile delinquency adjudications; (b) declining victim witness surcharge assessments as a condition of deferred prosecution agreements; (c) a failure of the courts to assess

victim and witness surcharges upon conviction; and (d) a failure to collect the victim and witness surcharge after it has been assessed. In his letter responding to the LAB audit, the Attorney General indicated that, "The legislature should be appropriately skeptical about the extent of new revenue from an additional V/W [victim and witness] surcharge increase." While 2009 Act 28 increased the victim and witness surcharge by 11.7% for any misdemeanor conviction (from \$60 to \$67) and by 8.2% for any felony conviction (from \$85 to \$92), it is estimated that victim and witness surcharge revenue in 2012-13 will be down 7.5% from amounts collected before the surcharge increase in 2008-09.

5. As a result of increasing expenditure authority and decreasing revenues, there is an increasing imbalance in the crime victim and witness surcharge fund. While 2011 Act 32 authorizes \$6,783,200 PR in expenditure authority from appropriations funded with the crime victim and witness surcharge in 2012-13, as indicated earlier, revenue from the surcharge is estimated to total \$5,523,500 PR in 2012-13. Due to lapse requirements and reduced revenue collections, DOJ expended \$4,562,500 PR in crime victim and witness surcharge funds on the three victim and witness programs supported by the surcharge in 2011-12.

6. Table 2 identifies the funding changes that would be made to the three current law programs supported by the crime victim and witness surcharge under AB 40. In order to address decreasing crime victim and witness surcharge revenues and in order to provide increased funding for these programs, AB 40 would provide a net increase of \$2,000,000 annually in funding for these programs as identified in Table 2.

TABLE 2

Increased Funding for Crime Victim and Witness Programs under AB 40

<u>Program</u>	<u>Fund</u>	Base	Change to Base	
		<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>
County Victim & Witness Programs	GPR	\$1,267,200	-\$1,267,200	-\$1,267,200
	PR	<u>4,074,400</u>	<u>2,675,700</u>	<u>2,675,700</u>
	All Funds	\$5,341,600	\$1,408,500	\$1,408,500
Crime Victim Compensation Program	GPR	\$1,120,900	\$1,267,200	\$1,267,200
	PR	<u>893,700</u>	<u>-893,700</u>	<u>-893,700</u>
	All Funds	\$2,014,600	\$373,500	\$373,500
Sexual Assault Victim Services	GPR	\$0	\$2,033,200	\$2,033,200
	PR	<u>1,815,100</u>	<u>-1,815,200</u>	<u>-1,815,200</u>
	All Funds	\$1,815,100	\$218,000	\$218,000
Total Annual Funding Change	GPR		\$2,033,200	\$2,033,200
	PR		<u>-33,200</u>	<u>-33,200</u>
	All Funds		\$2,000,000	\$2,000,000

7. It may be worth noting, however, that the realized increase in funding under AB 40

would likely be less than the amounts identified in Table 2 for county victim and witness programs. While AB 40 would provide \$2,675,700 PR annually in increased expenditure authority for county victim and witness programs supported by the crime victim and witness surcharge, increasing total expenditure authority for the program supported by the surcharge to \$6,750,500 PR in 2013-14, and \$6,750,800 PR in 2014-15, it is estimated that collections from the surcharge will total \$5,523,500 PR annually during the upcoming biennium. The administration has indicated that if collections did not occur at a level to support the provided expenditure authority, that expenditures would be adjusted to reflect available revenue.

8. As Table 2 indicates, the recommendations under AB 40 would not only provide GPR funding to replace reduced funding available from the crime victim and witness surcharge, but would provide increased expenditure authority of \$2,000,000 annually to these programs. For the sexual assault victim services grant program, DOJ staff indicates that the additional funding would permit the Department to get closer to grant funding levels that it provided to recipients under the program for calendar years 2010 and 2011. For county victim and witness programs, DOJ indicates that while the state has historically reimbursed county victim and witness programs for 55% to 60% of county costs, for 2011-12, the state reimbursed counties for 43% of their costs. The additional funding would permit DOJ to increase the amount the state reimburses counties for operating these victim and witness programs. Finally, annual costs to reimburse crime victims have been running ahead of available funding. Increased funding would allow available funding under the program to more closely mirror annual crime victim reimbursement costs. As a result, the Committee could consider approving the additional funding as recommended under AB 40. [Alternative 1]

9. On the other hand, the Committee could delete the additional funding provided to the programs under AB 40. Under this alternative, DOJ would be expected to adjust expenditures for the programs supported by the victim and witness surcharge to ensure that the victim and witness surcharge fund did not operate in deficit during 2013-15. Under this alternative, these programs would continue to rely on victim and witness surcharge revenue during 2013-15 as they have in prior biennia. [Alternative 3]

10. Alternatively, the Committee could consider: (a) adopting the simplification of the crime victim and witness surcharge as recommended under AB 40 (eliminating the differentiation between Parts A, B, and C of the surcharge); (b) reversing the GPR reduction to the county victim and witness program by restoring the GPR annual reimbursement for victim and witness services appropriation and its associated base funding of \$1,267,200 GPR annually; (c) re-estimating available crime victim and witness surcharge funding available during 2013-15 to fund the three programs (reducing expenditure authority for each program supported by the crime victim and witness surcharge by 19% annually); (d) creating PR annual appropriations for the crime victim compensation and sexual assault victim services grant programs supported by the victim and witness surcharge; and (e) providing GPR funding to all three programs to offset reductions in PR funding due to the re-estimate of the crime victim and witness surcharge fund. Under this alternative, DOJ would be provided GPR and PR resources of \$6,783,700 in 2013-14, and \$6,784,000 in 2014-15, to maintain base expenditure authority that under current law is intended to be supported by the crime victim and witness surcharge. This level of funding would represent a 48% increase over the amounts actually expended for these three victim and witness programs from the

crime victim and witness surcharge in 2011-12. [Alternative 2]

11. While the three programs have base expenditure authority of \$6,783,200 PR supported by the crime victim and witness surcharge in 2012-13, this alternative would provide funding for the programs totaling \$6,783,700 (all funds) in 2013-14, and \$6,784,000 (all funds) in 2014-15, to reflect minor increased amounts provided as standard budget adjustments. This alternative would reduce expenditure authority provided to the programs supported by the crime victim and witness surcharge to \$5,494,400 annually during the 2013-15 biennium. Additional GPR funding to maintain base expenditure authority (adjusted for standard budget adjustments) for the programs would total \$1,289,300 GPR in 2013-14, and \$1,289,600 GPR in 2014-15.

12. The net fiscal effect of this alternative would be to reduce GPR funding provided to the programs under AB 40 by \$743,900 GPR in 2013-14, and by \$743,600 GPR in 2014-15. This alternative would also reduce expenditure authority supported by the victim and witness surcharge by \$1,256,100 PR in 2013-14, and by \$1,256,400 PR in 2014-15, to reflect estimated revenues from the surcharge for 2013-15. [Alternative 2]

13. Table 3 identifies the net effect of the changes to the three victim and witness programs under Alternative 2.

TABLE 3**Funding Changes to the Victim and Witness Programs under Alternative 2**

	<u>Fund</u>	<u>2013-14</u>	<u>2014-15</u>
County Victim and Witness Programs			
Governor	GPR	-\$1,267,200	-\$1,267,200
Alternative 2	GPR	<u>2,041,700</u>	<u>2,042,000</u>
Net	GPR	774,500	774,800
Governor	PR	2,675,700	2,675,700
Alternative 2	PR	<u>-3,450,200</u>	<u>-3,450,500</u>
Net	PR	-774,500	-774,800
Governor	All Funds	1,408,500	1,408,500
Alternative 2	All Funds	-1,408,500	-1,408,500
Crime Victim Compensation Program			
Governor	GPR	1,267,200	1,267,200
Alternative 2	GPR	<u>-1,097,400</u>	<u>-1,097,400</u>
Net	GPR	169,800	169,800
Governor	PR	-893,700	-893,700
Alternative 2	PR	<u>723,900</u>	<u>723,900</u>
Net	PR	-169,800	-169,800
Governor	All Funds	373,500	373,500
Alternative 2	All Funds	-373,500	-373,500
Sexual Assault Victim Services			
Governor	GPR	2,033,200	2,033,200
Alternative 2	GPR	<u>-1,688,200</u>	<u>-1,688,200</u>
Net	GPR	345,000	345,000
Governor	PR	-1,815,200	-1,815,200
Alternative 2	PR	<u>1,470,200</u>	<u>1,470,200</u>
Net	PR	-345,000	-345,000
Governor	All Funds	218,000	218,000
Alternative 2	All Funds	-218,000	-218,000
Cumulative Funding Change -- All Three Programs			
Governor	GPR	2,033,200	2,033,200
Alternative 2	GPR	<u>-743,900</u>	<u>-743,600</u>
Net	GPR	1,289,300	1,289,600
Governor	PR	-33,200	-33,200
Alternative 2	PR	<u>-1,256,100</u>	<u>-1,256,400</u>
Net	PR	-1,289,300	-1,289,600
Governor	All Funds	2,000,000	2,000,000
Alternative 2	All Funds	-2,000,000	-2,000,000

ALTERNATIVES

1. *Crime Victim and Witness Surcharge.* Approve the Governor's recommendation to delete the differentiation of Parts A, B, and C of the crime victim and witness surcharge, and provide that all crime victim and witness surcharge revenue be used to provide reimbursements to counties for their victim and witness service programs. [While the bill would eliminate the differentiation between Parts A, B, and C of the surcharge, under the bill the crime victim and witness surcharge would remain at \$67 for each misdemeanor offense and \$92 for each felony offense.]

County Victim and Witness Program Funding. Delete the GPR annual reimbursement for victim and witness services appropriation and its associated base funding of \$1,267,200 GPR annually, which is utilized to reimburse counties for the costs of providing services to victims and witnesses.

Provide \$2,675,700 PR annually to the crime victim and witness assistance surcharge appropriation to reimburse counties for the costs of providing services to victims and witnesses. Eliminate transfers out of the PR crime victim and witness assistance surcharge appropriation and delete: (a) the victim payments, victim surcharge appropriation which funds crime victim compensation awards from crime victim and witness surcharge revenue; and (b) the reimbursement to counties for providing victim and witness services appropriation from which additional reimbursement payments to counties for their victim and witness programs may be made.

Crime Victim Compensation. Delete the victim payments, victim surcharge appropriation and its base funding of \$893,700 PR annually, which provides funding for crime victim compensation awards. [Under current law, this appropriation is supported by Parts A and C of the crime victim and witness surcharge.]

Instead, provide \$1,267,200 GPR annually to provide increased funding for crime victim compensation awards.

Sexual Assault Victim Services Grant Program. Delete the PR continuing crime victim and witness surcharge, sexual assault victim services appropriation. Remove base funding and position authority of \$1,815,200 PR and 0.4 PR position annually, which provides grants to nonprofit organizations and public agencies (\$1,782,000 annually) and program staffing support in DOJ (\$33,200 annually).

Create a GPR annual sexual assault victim services appropriation and provide \$2,033,200 GPR and 0.4 GPR position annually to this appropriation. The following funding would be provided: (a) \$2,000,000 annually for local assistance grant funding to nonprofit organizations and public agencies which provide services to sexual assault victims; (b) \$23,200 annually for permanent position salary funding; (c) \$8,900 annually for fringe benefits funding; (d) \$500 annually for supplies and services funding; and (e) \$600 annually for rent costs.

2. Modify the Governor's recommendation by: (a) reversing the GPR reduction to the county victim and witness program by restoring the GPR annual reimbursement for victim and

witness services appropriation and its associated base funding of \$1,267,200 GPR annually; (b) re-estimating available crime victim and witness surcharge funding available during 2013-15 to fund the three programs (reducing expenditure authority for each program supported by the crime victim and witness surcharge by 19%); (c) creating PR annual appropriations for the crime victim compensation and sexual assault victim services grant programs supported by the victim and witness surcharge; and (d) providing GPR funding to all three programs to offset reductions in PR funding due to the re-estimate of the crime victim and witness surcharge fund.

ALT 2	Change to Bill Funding
GPR	- \$1,487,500
PR	<u>-2,512,500</u>
Total	-\$4,000,000

3. Delete provision.

ALT 3	Change to Bill Funding Positions	
GPR	- \$4,066,400	- 0.40
PR	<u>66,400</u>	<u>0.40</u>
Total	-\$4,000,000	0.00

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