

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6348

BILL NUMBER: SB 44

DATE PREPARED: Feb 10, 1999

BILL AMENDED: Feb 9, 1999

SUBJECT: Victim rights.

FISCAL ANALYST: Susan Preble

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FUNDS AFFECTED: **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill provides statutory implementation of the victim rights amendment to Article 1, Section 13 of the Constitution of the State of Indiana. It outlines the rights of victims, including the right to be notified of and to be present at hearings concerning the accused and to make statements at sentencing hearings. It also repeals and replaces the existing statute concerning victim assistance programs and victim notification.

Effective Date: July 1, 1999.

Explanation of State Expenditures: (Revised) The Indiana Criminal Justice Institute currently administers 240 victim assistance grants which provide services to all 92 counties. These programs are housed in a variety of settings, including county prosecutors' offices, local law enforcement agencies, domestic violence shelters, and other non-profit organizations. The Institute is also funding a study conducted by Indiana University on victim assistance programs statewide. The study includes an audit of existing programs to determine effectiveness, and a needs assessment to ascertain any gaps in service. The fieldwork began in the spring of 1998 and is still ongoing.

If a victim has made a request for notice, this bill requires mental health treatment agencies to mail a notification to the victim not later than ten (10) days before the release or discharge of a person: (1) accused or convicted of committing a criminal offense against the victim; and (2) notice of the release or discharge of the person who is placed by court order with the mental health treatment agency. A mental health treatment agency must mail a notification to a victim immediately after the escape or subsequent readmission of a person: (1) accused or convicted of committing a criminal offense against the victim; and (2) placed by court order with the mental health treatment agency. There are five (5) state hospitals and 30 community mental health centers that treat the mentally ill including persons accused or convicted of committing criminal offenses against victims. These agencies may incur additional costs associated with mailing expenses and increased workload for staff responsible for preparing and mailing the notices.

The bill also provides that a prosecuting attorney who fails to comply with the duties required of prosecuting attorneys with regard to victim assistance programs is subject to impeachment and removal from office. Victim assistance programs are funded primarily by the county, and occasionally, by federal grants. There are many duties required of prosecuting attorneys, including, but not limited to: informing the victim of the victim's rights in the criminal justice system and providing timely notification to the victim of all criminal justice hearings and proceedings scheduled for the criminal matter in which the victim was involved (including promptly notifying the victim when proceedings are rescheduled or canceled), and coordinating efforts of law enforcement agencies to provide information to the victim regarding available services, such as victim compensation funds and other victim assistance resources. Failure to comply with any one of the requirements will subject a prosecuting attorney to impeachment.

Existing law requires that all impeachments must be conducted by managers elected by the House of Representatives who must prepare articles of impeachment and present and prosecute them to the Senate. The trial must be conducted before the Senate sitting as a court of impeachment. The expense and resources required to conduct an impeachment proceeding would be borne by the state.

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) This bill consolidates existing victim rights statutes into one chapter and adds additional provisions which may increase local expenditures as follows:

(A) Requires that upon the victim's request, the prosecuting attorneys and victims assistance programs notify the victim if the defendant is convicted and provide the following information, if applicable: (1) the function of the presentence report; (2) the name and telephone number of the probation department that is preparing the presentence report; (3) the right to make a victim impact statement; (4) the defendant's right to review the presentence report; (5) the victim's right to review the presentence report, except those parts excised by the court or made confidential by law; (6) the victim's right to be present and heard at any sentencing procedure; (7) the time, place and date of the sentencing proceeding. Currently, local probation departments are required to notify victims of the information listed above. Because many local prosecuting attorneys and victim assistance programs already provide victims with similar information, the fiscal impact should be minimal.

(B) Requires that if a person accused of committing a crime against a victim escapes from the custody of a local law enforcement agency, the law enforcement agency must notify the victim. The fiscal impact of this requirement is minimal due to the fact that not many people escape from jail. Currently, the Department of Correction is required to notify victims if a defendant escapes from a Department of Correction facility.

(C) Requires that whenever a person accused or convicted of committing a crime against a victim escapes or is released from the custody of a mental health treatment agency or hospital that is not operated by a county or the state, the court who committed the accused or convicted person must notify the victim of the release or escape.

(D) Requires that upon the request of the victim, a criminal court must notify the victim of a modification of the terms of probation of a person convicted of a crime against the victim only if: (1) the modification will substantially affect the person's contact with or safety of the victim; or (2) the modification affects the person's restitution or confinement status. As of December 31, 1997, there were a total of 118,081 persons on probation (33,976 felons, 63,099 misdemeanants, and 21,006 juveniles). The fiscal impact is indeterminable because the number of probation modifications criminal courts hear each year is unknown.

Explanation of Local Revenues:

State Agencies Affected: State hospitals (Madison, LaRue Carter, Evansville, Richmond, Logansport); community mental health centers.

Local Agencies Affected: Local law enforcement agencies; trial courts; prosecuting attorneys.

Information Sources: Catherine O'Connor, Indiana Criminal Justice Institute, 232-2560; Stephen Johnson, Indiana Prosecuting Attorneys Council, 232-1836; J.D. Lux, Office of the Attorney General, 233-8438; Indiana Council of Community Mental Health Centers, 684-3684; 1997 Indiana Probation Report, p.32.