

SENATE COMMITTEE OF REFERENCE REPORT

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Chair of Committee

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Date

February 24, 2022

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB22-043 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3           **"SECTION 1. Legislative declaration.** (1) The general  
4 assembly finds and declares that:

5           (a) Restitution aims to restore a victim and repair the financial  
6 harm a crime created in the victim's life;

7           (b) Instead of ignoring the harm inflicted on a victim, restitution  
8 has the ability to repair part of the injury the crime caused;

9           (c) Restitution has the ability to rehabilitate an offender, allowing  
10 the offender to acknowledge the guilt and shame associated with the  
11 crime, and provides the offender the opportunity to make things right;

12           (d) What qualifies as an allowable restitution expense is subjective  
13 and varies from jurisdiction to jurisdiction;

14           (e) Between January 2020 and April 2021, inmates who were  
15 incarcerated in the department of corrections received stimulus checks  
16 from the federal government through the "Coronavirus Aid, Relief, and  
17 Economic Security Act", Pub.L. 116-136;

18           (f) If an inmate does not meet the inmate's financial obligation to  
19 pay restitution to the inmate's victim, the victim and the victim's family  
20 suffer financial distress;

21           (g) To alleviate the financial distress of victims, at least eight  
22 states and the federal government require that an inmate's federal stimulus  
23 checks be used to pay restitution to victims; and

24           (h) Courts, including the United States Court of Appeals for the  
25 Tenth Circuit, have ruled that garnishing federal stimulus money from an  
26 inmate's bank account to pay restitution to victims is constitutional and  
27 enforceable.

1 (2) Therefore, the general assembly finds that, to help restore a  
2 victim, there must be efforts to improve the restitution system, including:  
3 (a) To expand the list of allowable restitution expenses that are  
4 proximately caused by the crime; and  
5 (b) To access an inmate's federal stimulus money to pay restitution  
6 to the victim.

7 **SECTION 2.** In Colorado Revised Statutes, 18-1.3-602, **add** (2.2)  
8 and (3.7) as follows:

9 **18-1.3-602. Definitions.** As used in this part 6, unless the context  
10 otherwise requires:

11 (2.2) "CRITICAL STAGES" MEANS THE STAGES OF THE CRIMINAL  
12 JUSTICE PROCESS AS DESCRIBED IN SECTION 24-4.1-302 (2).

13 (3.7) "TRAVEL EXPENSES" MEANS EXPENSES INCURRED BY  
14 AIRPLANE, TRAIN, BUS, OR CAR TRAVEL, INCLUDING BAGGAGE FEES  
15 INCURRED BY TRAVEL EXPENSES; FARES FOR TRANSPORTATION TO AND  
16 FROM THE AIRPORT, TRAIN STATION, BUS STATION, OR HOTEL TO THE  
17 COURT PROCEEDING OR SECURE SITE; RENTAL CAR EXPENSES OR THE COST  
18 OF OPERATING A PERSONAL VEHICLE EQUAL TO THE STANDARD MILEAGE  
19 RATE ALLOWED PURSUANT TO 26 U.S.C. SEC. 162, AS AMENDED; AND  
20 MEAL PER DIEM EQUAL TO THE STANDARD MEAL PER DIEM ALLOWED  
21 PURSUANT TO 26 U.S.C. SEC. 162, AS AMENDED.

22 **SECTION 3.** In Colorado Revised Statutes, 18-1.3-603, **amend**  
23 (2); and **add** (11) as follows:

24 **18-1.3-603. Assessment of restitution - corrective orders.**

25 (2) (a) The court shall base its order for restitution upon information  
26 presented to the court by the prosecuting attorney, who shall compile such  
27 information through victim impact statements or other means to  
28 determine the amount of restitution and the identities of the victims.  
29 Further, the prosecuting attorney shall present this information to the  
30 court prior to the order of conviction or within ninety-one days, if it is not  
31 available prior to the order of conviction. The court may extend this date  
32 if it finds that there are extenuating circumstances affecting the  
33 prosecuting attorney's ability to determine restitution.

34 (b) IN COMPUTING RESTITUTION PURSUANT TO SUBSECTION (2)(a)  
35 OF THIS SECTION, THE FOLLOWING EXPENSES ARE ALLOWABLE IF  
36 PROXIMATELY CAUSED BY THE CRIME, INCLUDING BUT NOT LIMITED TO:

37 (I) LONG-TERM OR ONGOING MEDICAL EXPENSES AS A RESULT OF  
38 THE CRIME FOR WHICH THE OFFENDER WAS CONVICTED OR OF ANY  
39 CONDUCT ARISING OUT OF THE CASE;

40 (II) REIMBURSEMENT FOR INSURANCE DEDUCTIBLES, INCLUDING  
41 DEDUCTIBLES FOR MEDICAL EXPENSES FOR PHYSICAL AND MENTAL  
42 HEALTH ISSUES, PROPERTY DAMAGE OR LOSS, AND AUTOMOBILE DAMAGE  
43 OR LOSS;

1 (III) REPLACEMENT COSTS FOR DAMAGED OR DESTROYED  
2 PROPERTY, INCLUDING LOCKS, WINDOWS, AND DOORS;

3 (IV) TRAVEL EXPENSES TO COURT HEARINGS IF THE VICTIM  
4 TRAVELS OVER ONE HUNDRED MILES ONE WAY FROM THE LOCATION OF  
5 THE COURT PROCEEDING OR WHEN THE VICTIM IS AWAY FROM HOME  
6 LONGER THAN ONE DAY, REQUIRING AN OVERNIGHT STAY. A VICTIM MAY  
7 RECEIVE TRAVEL EXPENSES FOR TRAVEL TO CRITICAL STAGES OF THE CASE  
8 ONLY FOR THE CRITICAL STAGES DESCRIBED IN SECTION 24-4.1-302 (2)(b),  
9 (2)(e), (2)(f), (2)(g), AND (2)(h).

10 (V) TRAVEL EXPENSES TO A SECURE SITE, IF REQUIRED, TO  
11 PARTICIPATE VIRTUALLY IN COURT PROCEEDINGS;

12 (VI) CHILD CARE EXPENSES WHILE THE VICTIM PARTICIPATES IN  
13 COURT PROCEEDINGS; AND

14 (VII) REIMBURSEMENT FOR LOST WAGES TO ATTEND A CRITICAL  
15 STAGE OF THE CASE FOR THE CRITICAL STAGES DESCRIBED IN SECTION 24-  
16 4.1-302 (2)(b), (2)(e), (2)(f), (2)(g), AND (2)(h).

17 (c) THE COURT SHALL REVIEW THE TRAVEL EXPENSES DESCRIBED  
18 IN SUBSECTIONS (2)(b)(IV) AND (2)(b)(V) OF THIS SECTION TO ENSURE  
19 THE TRAVEL EXPENSES ARE REASONABLE. IF THE COURT FINDS THE  
20 TRAVEL EXPENSES ARE UNREASONABLE, THE COURT MAY REDUCE THE  
21 AMOUNT OF RECOVERABLE TRAVEL EXPENSES TO A REASONABLE AMOUNT.

22 (d) NOTWITHSTANDING THE DETERMINATION OF RESTITUTION, AN  
23 ORDER OF CONVICTION IS FINAL.

24 (11) ABSENT AN AGREEMENT BETWEEN THE DEFENDANT AND THE  
25 PROSECUTION AT THE TIME THE PLEA IS ENTERED, A COURT MAY NOT  
26 IMPOSE RESTITUTION FOR PECUNIARY LOSSES PROXIMATELY CAUSED BY  
27 CONDUCT EXCLUSIVELY RELATED TO DISMISSED CHARGES.

28 **SECTION 4.** In Colorado Revised Statutes, 16-18.5-106, **add**  
29 (2.5) as follows:

30 **16-18.5-106. Restitution for persons sentenced to the**  
31 **department of corrections.** (2.5) (a) NOTWITHSTANDING ANY PROVISION  
32 OF THE LAW TO THE CONTRARY, THE EXECUTIVE DIRECTOR OF THE  
33 DEPARTMENT OF CORRECTIONS SHALL ORDER THAT ANY FEDERAL  
34 STIMULUS FUNDS AN INMATE RECEIVED IN THE INMATE'S BANK ACCOUNT  
35 FROM THE FEDERAL GOVERNMENT'S "CORONAVIRUS AID, RELIEF, AND  
36 ECONOMIC SECURITY ACT", PUB.L. 116-136, OR ANY SUBSEQUENT  
37 FEDERAL STIMULUS FUNDING RELATED TO THE COVID-19 PANDEMIC, BE  
38 DEDUCTED AND, SUBJECT TO THE LIMIT OF THE FEDERAL STIMULUS FUNDS  
39 IN THE INMATE'S BANK ACCOUNT, PAID TOWARD ANY OUTSTANDING  
40 COURT-ORDERED RESTITUTION RESULTING FROM A CRIMINAL CASE.

41 (b) ANY REMAINING FEDERAL STIMULUS FUNDS IN THE INMATE'S  
42 BANK ACCOUNT MUST BE DISPERSED IN ACCORDANCE WITH SECTION  
43 16-18.5-110.

1           **SECTION 5. Act subject to petition - effective date.** This act  
2 takes effect at 12:01 a.m. on the day following the expiration of the  
3 ninety-day period after final adjournment of the general assembly; except  
4 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
5 of the state constitution against this act or an item, section, or part of this  
6 act within such period, then the act, item, section, or part will not take  
7 effect unless approved by the people at the general election to be held in  
8 November 2022 and, in such case, will take effect on the date of the  
9 official declaration of the vote thereon by the governor."

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