

CHAPTER 70

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 17-1071

BY REPRESENTATIVE(S) Wist and Lee, Becker K., Benavidez, Carver, Covarrubias, Esgar, Exum, Herod, Hooton, Humphrey, Lebsock, Liston, Lontine, McKean, Melton, Mitsch Bush, Neville P., Nordberg, Pettersen, Ransom, Rosenthal, Saine, Salazar, Sias, Singer, Valdez, Weissman, Williams D., Duran;
also SENATOR(S) Gardner and Kagan, Baumgardner, Court, Crowder, Fenberg, Fields, Garcia, Jahn, Jones, Kerr, Martinez Humenik, Merrifield, Moreno, Priola, Smallwood, Tate, Todd, Williams A., Zenzinger.

AN ACT

CONCERNING A PROCESS FOR REPAYMENT OF CERTAIN CRIMINAL MONETARY AMOUNTS ORDERED BY THE COURT TO BE PAID FOLLOWING CONVICTION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 18-1.3-703 as follows:

18-1.3-703. Reimbursement of amounts paid following a vacated conviction or amended order for restitution - petition. (1) THE FOLLOWING PERSONS ARE ELIGIBLE UNDER THIS SECTION FOR A REFUND OF MONETARY PAYMENTS ACTUALLY PAID:

(a) A DEFENDANT WHOSE COURT-ORDERED FINES, FEES, COSTS, SURCHARGES, RESTITUTION, INTEREST, OR OTHER MONETARY AMOUNTS RESULTING FROM A CRIMINAL CONVICTION IN A DISTRICT OR COUNTY COURT OF THIS STATE HAVE BEEN PAID IF THE AMOUNT PAID RELATES SOLELY TO A CONVICTION:

(I) THAT IS VACATED AFTER POSTCONVICTION PROCEEDINGS OR IS OVERTURNED ON APPEAL; AND

(II) THE CHARGE ON WHICH THE CONVICTION WAS BASED IS DISMISSED OR THE PERSON IS ACQUITTED OF THE CHARGE AFTER A NEW TRIAL;

(b) A DEFENDANT WHOSE COURT-ORDERED RESTITUTION AND INTEREST RESULTING FROM A CRIMINAL CONVICTION IN A DISTRICT OR COUNTY COURT OF THIS STATE HAVE BEEN PAID AND:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(I) THE RESTITUTION ORDERED BY THE COURT IS REVERSED ON APPEAL; OR

(II) THE AMOUNT OF RESTITUTION ORDERED BY THE COURT IS REVERSED ON APPEAL AND THE RESTITUTION, INCLUDING INTEREST, THAT HAS BEEN PAID IS IN EXCESS OF THE AMOUNT UPHELD ON APPEAL.

(2) (a) A DEFENDANT MAY FILE A WRITTEN MOTION IN THE COURT IN WHICH THE CONVICTION WAS ENTERED FOR A REFUND OF ANY MONETARY AMOUNTS DESCRIBED IN SUBSECTION (1) OF THIS SECTION WITHIN ONE YEAR AFTER THE DEFENDANT BECOMES ELIGIBLE FOR THE REFUND. THE COURT MAY ONLY EXTEND THE ONE-YEAR TIME LIMIT FOR GOOD CAUSE.

(b) THE DEFENDANT BEARS THE BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT THE AMOUNT WAS ACTUALLY PAID AND THAT IT IS ELIGIBLE FOR A REFUND PURSUANT TO SUBSECTION (1) OF THIS SECTION. IF THE COURT FINDS THAT THE DEFENDANT HAS ESTABLISHED ELIGIBILITY FOR A REFUND, THE COURT SHALL ISSUE AN ORDER DIRECTING THE STATE COURT ADMINISTRATOR TO ISSUE A REFUND FOR THE TOTAL MONETARY AMOUNT FOUND TO BE DUE.

(3) NOTHING IN THIS SECTION REQUIRES A VICTIM TO REPAY RESTITUTION RECEIVED AS A RESULT OF A CRIMINAL CONVICTION.

SECTION 2. In Colorado Revised Statutes, **add** 13-3-114.5 as follows:

13-3-114.5. State court administrator - reimbursement of monetary amounts paid following a vacated conviction or amended order of restitution. WITHIN TWENTY-EIGHT DAYS AFTER RECEIPT OF AN ORDER FROM A DISTRICT OR COUNTY COURT FOR PAYMENT OF A REFUND OF MONETARY AMOUNTS PAID, THE STATE COURT ADMINISTRATOR SHALL ISSUE A REFUND PAYMENT TO THE PERSON WHO ESTABLISHED ELIGIBILITY UNDER SECTION 18-1.3-703.

SECTION 3. Act subject to petition - effective date - applicability. (1) This act takes effect September 1, 2017; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to convictions vacated and restitution orders reversed on or after the applicable effective date of this act.

Approved: March 23, 2017