

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 17-0632.01 Jerry Barry x4341

HOUSE BILL 17-1071

HOUSE SPONSORSHIP

Wist and Lee,

SENATE SPONSORSHIP

Gardner and Kagan,

House Committees
Judiciary

Senate Committees
Judiciary

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill establishes a process for a person who has paid a monetary amount due to a criminal conviction to request a refund of the amount paid if:

- ! The conviction was overturned and either the charges were dismissed or the person was acquitted following a new

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
2nd Reading Unamended
March 8, 2017

HOUSE
3rd Reading Unamended
February 21, 2017

HOUSE
Amended 2nd Reading
February 17, 2017

trial; or
! All or part of an order for restitution was reversed and the person paid more restitution than was ultimately ordered.
The bill directs the state court administrator to pay to the person, from amounts appropriated from the general fund, the amount of any refund found due.

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

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

4 **18-1.3-703. Reimbursement of amounts paid following a**
5 **vacated conviction or amended order for restitution - petition.**

6 (1) THE FOLLOWING PERSONS ARE ELIGIBLE UNDER THIS SECTION FOR A
7 REFUND OF MONETARY PAYMENTS ACTUALLY PAID:

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

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

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

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

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

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

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

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

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

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

21 **13-3-114.5. State court administrator - reimbursement of**
22 **monetary amounts paid following a vacated conviction or amended**
23 **order of restitution.** WITHIN TWENTY-EIGHT DAYS AFTER RECEIPT OF AN
24 ORDER FROM A DISTRICT OR COUNTY COURT FOR PAYMENT OF A REFUND
25 OF MONETARY AMOUNTS PAID, THE STATE COURT ADMINISTRATOR SHALL
26 ISSUE A REFUND PAYMENT TO THE PERSON WHO ESTABLISHED ELIGIBILITY
27 UNDER SECTION 18-1.3-703.

1 **SECTION 3. Act subject to petition - effective date -**
2 **applicability.** (1) This act takes effect September 1, 2017; except that,
3 if a referendum petition is filed pursuant to section 1 (3) of article V of
4 the state constitution against this act or an item, section, or part of this act
5 within the ninety-day period after final adjournment of the general
6 assembly, then the act, item, section, or part will not take effect unless
7 approved by the people at the general election to be held in November
8 2018 and, in such case, will take effect on the date of the official
9 declaration of the vote thereon by the governor.
10 (2) This act applies to convictions vacated and restitution orders
11 reversed on or after the applicable effective date of this act. ■■■