

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 22-0302.01 Alana Rosen x2606

SENATE BILL 22-043

SENATE SPONSORSHIP

Cooke and Gonzales, Hansen, Lee, Priola, Zenzinger

HOUSE SPONSORSHIP

Lynch and Duran,

Senate Committees

Judiciary
Appropriations

House Committees

Business Affairs & Labor
Appropriations

A BILL FOR AN ACT

101 **CONCERNING ENHANCING RESTITUTION SERVICES FOR VICTIMS, AND,**
102 **IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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>.)

Current law requires a prosecuting attorney to submit information to the court to determine the specific amount of restitution upon order of conviction or within 91 days. The bill extends the deadline for a prosecuting attorney to submit information to the court to determine the specific amount of restitution upon order of conviction or within 182 days for adult cases. Upon submission of the prosecuting attorney's

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

SENATE
3rd Reading Unamended
May 5, 2022

SENATE
Amended 2nd Reading
May 4, 2022

information, the court shall determine the specific amount of restitution within 63 days. For cases involving juveniles, the deadline for a prosecuting attorney to submit information remains 91 days.

The bill requires a prosecuting attorney to consider a list of allowable and collectable expenses as the prosecuting attorney gathers information from a victim to submit to the court to determine restitution.

The bill creates the division of restitution services planning group (planning group) in the department of human services' (department) office of economic security. The planning group is required to draft a plan that will help facilitate the creation of a new division of restitution services. The planning group must submit a report to the house of representatives judiciary committee and the senate judiciary committee, or any successor committees; the governor; and the department.

The bill creates the division of restitution services (division) in the department's office of economic security. The director of the division is appointed by the governor. Pursuant to the planning group's recommendations, the duties of the division are:

- To coordinate with the planning group to implement its recommendations;
- To collaborate with state agencies to support a centralized state restitution case registry system;
- To support and guide victims seeking restitution;
- To advocate to the general assembly and state agencies on behalf of victims navigating the restitution system; and
- To educate victims, defendants, and other state agencies on the restitution system.

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

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

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

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

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

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

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

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

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

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

17 (2) Therefore, the general assembly finds that, to help restore a
18 victim, there must be efforts to improve the restitution system, including:

19 (a) To expand the list of allowable restitution expenses that are
20 proximately caused by the crime; and

21 (b) To access an inmate's federal stimulus money to pay restitution
22 to the victim.

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

25 **18-1.3-602. Definitions.** As used in this part 6, unless the context
26 otherwise requires:

27 (2.2) "CRITICAL STAGES" MEANS THE STAGES OF THE CRIMINAL

1 JUSTICE PROCESS AS DESCRIBED IN SECTION 24-4.1-302 (2).

2 (3.7) "TRAVEL EXPENSES" MEANS EXPENSES INCURRED BY
3 AIRPLANE, TRAIN, BUS, OR CAR TRAVEL, INCLUDING BAGGAGE FEES
4 INCURRED BY TRAVEL EXPENSES; FARES FOR TRANSPORTATION TO AND
5 FROM THE AIRPORT, TRAIN STATION, BUS STATION, OR HOTEL TO THE
6 COURT PROCEEDING OR SECURE SITE; RENTAL CAR EXPENSES OR THE COST
7 OF OPERATING A PERSONAL VEHICLE EQUAL TO THE LATEST PUBLISHED
8 RATES FROM THE UNITED STATES GENERAL SERVICES ADMINISTRATION
9 FOR GOVERNMENT EMPLOYEES, AS DETERMINED PURSUANT TO 5 U.S.C.
10 5701 ET SEQ., AS AMENDED; AND MEAL AND LODGING PER DIEM EQUAL TO
11 THE LATEST PUBLISHED RATES FROM THE UNITED STATES GENERAL
12 SERVICES ADMINISTRATION FOR GOVERNMENT EMPLOYEES, AS
13 DETERMINED PURSUANT TO 5 U.S.C. 5701 ET SEQ., AS AMENDED.

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

16 **18-1.3-603. Assessment of restitution - corrective orders.**
17 (2) (a) The court shall base its order for restitution upon information
18 presented to the court by the prosecuting attorney, who shall compile such
19 information through victim impact statements or other means to
20 determine the amount of restitution and the identities of the victims.
21 Further, the prosecuting attorney shall present this information to the
22 court prior to the order of conviction or within ninety-one days, if it is not
23 available prior to the order of conviction. The court may extend this date
24 if it finds that there are extenuating circumstances affecting the
25 prosecuting attorney's ability to determine restitution.

26 (b) IN COMPUTING RESTITUTION PURSUANT TO SUBSECTION (2)(a)
27 OF THIS SECTION, THE FOLLOWING EXPENSES ARE ALLOWABLE IF

1 PROXIMATELY CAUSED BY THE CRIME, INCLUDING BUT NOT LIMITED TO:

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

5 (II) REIMBURSEMENT FOR INSURANCE DEDUCTIBLES, INCLUDING
6 DEDUCTIBLES FOR MEDICAL EXPENSES FOR PHYSICAL AND MENTAL
7 HEALTH ISSUES, PROPERTY DAMAGE OR LOSS, AND AUTOMOBILE DAMAGE
8 OR LOSS;

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

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

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

20 (VI) CHILD CARE EXPENSES WHILE THE VICTIM PARTICIPATES IN
21 COURT PROCEEDINGS; AND

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

25 (c) THE COURT SHALL REVIEW THE TRAVEL EXPENSES DESCRIBED
26 IN SUBSECTIONS (2)(b)(IV) AND (2)(b)(V) OF THIS SECTION TO ENSURE
27 THE TRAVEL EXPENSES ARE REASONABLE. IF THE COURT FINDS THE

1 TRAVEL EXPENSES ARE UNREASONABLE, THE COURT MAY REDUCE THE
2 AMOUNT OF RECOVERABLE TRAVEL EXPENSES TO A REASONABLE AMOUNT.

3 (d) NOTWITHSTANDING THE DETERMINATION OF RESTITUTION, AN
4 ORDER OF CONVICTION IS FINAL.

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

9 **SECTION 4.** In Colorado Revised Statutes, 16-18.5-106, add
10 (2.5) as follows:

11 **16-18.5-106. Restitution for persons sentenced to the**
12 **department of corrections.** (2.5) (a) THE DEPARTMENT OF CORRECTIONS
13 SHALL INTERCEPT GOVERNMENT WINDFALL PAYMENTS BEFORE THE
14 GOVERNMENT WINDFALL PAYMENTS ARE MADE AVAILABLE IN AN
15 INMATE'S BANK ACCOUNT. THE DEPARTMENT OF CORRECTIONS SHALL
16 SEND FUNDS FROM INTERCEPTED GOVERNMENT WINDFALL PAYMENTS TO
17 THE JUDICIAL DEPARTMENT IN AN AMOUNT EQUAL TO ANY AMOUNT OWED
18 BY THE INMATE PURSUANT TO SECTION 16-18.5-110. THE JUDICIAL
19 DEPARTMENT SHALL THEN DISPERSE THE FUNDS IN ACCORDANCE WITH
20 SECTION 16-18.5-110. THE DEPARTMENT OF CORRECTIONS SHALL
21 DISPERSE ANY REMAINING FUNDS IN ACCORDANCE WITH SECTION
22 16-18.5-106. IF ANY FUNDS REMAIN AFTER ALL OF THE INMATE'S
23 OUTSTANDING OBLIGATIONS ARE FULFILLED, THE EXCESS FUNDS MUST BE
24 PLACED IN THE INMATE'S BANK ACCOUNT.

25 (b) AS USED IN THIS SUBSECTION (2.5), "GOVERNMENT WINDFALL
26 PAYMENT" MEANS AN UNUSUAL PAYMENT FROM A GOVERNMENTAL
27 ENTITY TO AN INMATE IN THE DEPARTMENT OF CORRECTIONS AND

1 INCLUDES ECONOMIC STIMULUS PAYMENTS AND ANY OTHER UNUSUAL
2 GOVERNMENT PAYMENTS. "GOVERNMENT WINDFALL PAYMENT" DOES NOT
3 INCLUDE PAYMENTS TO INMATES FOR WAGES, PENSIONS, DISABILITY
4 PAYMENTS, CHILD SUPPORT, TUITION, RESTITUTION, AND VICTIMS
5 COMPENSATION.

6 **SECTION 5. In Colorado Revised Statutes, add 16-18.5-113 as**
7 **follows:**

8 **16-18.5-113. Office of restitution services - created.** (1) THERE
9 IS CREATED IN THE JUDICIAL DEPARTMENT THE OFFICE OF RESTITUTION
10 SERVICES, REFERRED TO IN THIS SECTION AS THE "OFFICE". THE PURPOSE
11 OF THE OFFICE IS TO ASSIST VICTIMS WHO ARE OWED COURT-ORDERED
12 RESTITUTION.

13 (2) THE OFFICE SHALL:

14 (a) RECEIVE REQUESTS FROM VICTIMS REQUESTING SEMIANNUAL
15 STATEMENTS AS SET FORTH IN SUBSECTION (3) OF THIS SECTION;

16 (b) ANSWER GENERAL QUESTIONS AND ASSIST VICTIMS WITH
17 CASE-SPECIFIC QUESTIONS RELATED TO COURT-ORDERED RESTITUTION;

18 (c) CREATE AND MAINTAIN A WEB PAGE ON THE JUDICIAL
19 DEPARTMENT WEBSITE WITH RESOURCES AND INFORMATION ON
20 COURT-ORDERED RESTITUTION;

21 (d) ASSIST WITH TRAINING RELATED TO THE ADMINISTRATION OF
22 THE RESTITUTION SYSTEM;

23 (e) ENHANCE COMMUNICATIONS FOR POSTSENTENCE RESTITUTION;

24 AND

25 (f) COLLABORATE WITH VICTIM ADVOCACY PROGRAMS.

26 (3)(a) A VICTIM WHO IS OWED COURT-ORDERED RESTITUTION MAY
27 SUBMIT A REQUEST TO THE OFFICE TO PROVIDE SEMIANNUAL STATEMENTS

1 DETAILING THE RESTITUTION PAYMENTS THE DEFENDANT HAS MADE TO
2 THE VICTIM AND THE DISBURSEMENTS THE COURT HAS MADE TO THE
3 VICTIM. THE STATEMENT MUST INCLUDE THE OUTSTANDING AMOUNT OF
4 COURT-ORDERED RESTITUTION OWED TO THE VICTIM.

5 (b) THE OFFICE SHALL VERIFY THE IDENTITY OF THE VICTIM
6 MAKING THE REQUEST DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION
7 TO ENSURE THE VICTIM IS OWED COURT-ORDERED RESTITUTION FOR THE
8 CASE.

9 (c) THE OFFICE SHALL NOT PROVIDE INFORMATION RELATED TO
10 COURT-ORDERED RESTITUTION TO OTHER VICTIMS IN THE SAME CASE OR
11 IN OTHER CASES IN WHICH THE VICTIM REQUESTS A SEMIANNUAL
12 STATEMENT PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION.

13 **SECTION 6. Appropriation.** (1) For the 2022-23 state fiscal
14 year, \$129,359 is appropriated to the judicial department. This
15 appropriation is from the judicial collection enhancement fund created in
16 section 16-11-101.6 (2), C.R.S. To implement this act, the department
17 may use this appropriation as follows:

18 (a) \$116,319 for the office of restitution services, which amount
19 is based on an assumption that the office will require an additional 1.6
20 FTE; and

21 (b) \$13,040 for capital outlay.

22 **SECTION 7. Act subject to petition - effective date.** This act
23 takes effect at 12:01 a.m. on the day following the expiration of the
24 ninety-day period after final adjournment of the general assembly; except
25 that, if a referendum petition is filed pursuant to section 1 (3) of article V
26 of the state constitution against this act or an item, section, or part of this
27 act within such period, then the act, item, section, or part will not take

1 effect unless approved by the people at the general election to be held in
2 November 2022 and, in such case, will take effect on the date of the
3 official declaration of the vote thereon by the governor.