

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,

HOUSE SPONSORSHIP

(None),

Senate Committees

Judiciary
Appropriations

House Committees

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.

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 DEPOSITED IN AN INMATE'S BANK
15 ACCOUNT. THE DEPARTMENT OF CORRECTIONS SHALL DISPERSE EACH
16 GOVERNMENT WINDFALL PAYMENT IN ACCORDANCE WITH SECTION
17 16-18.5-110.

18 (b) AS USED IN THIS SUBSECTION (2.5), "GOVERNMENT WINDFALL
19 PAYMENT" MEANS AN UNUSUAL PAYMENT FROM A GOVERNMENTAL
20 ENTITY TO AN INMATE IN THE DEPARTMENT OF CORRECTIONS AND
21 INCLUDES ECONOMIC STIMULUS PAYMENTS AND ANY OTHER UNUSUAL
22 GOVERNMENT PAYMENTS. "GOVERNMENT WINDFALL PAYMENT" DOES NOT
23 INCLUDE PAYMENTS TO INMATES FOR WAGES, PENSIONS, DISABILITY
24 PAYMENTS, CHILD SUPPORT, TUITION, RESTITUTION, AND VICTIMS
25 COMPENSATION.

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

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

6 (2) THE OFFICE SHALL:

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

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

11 (c) CREATE AND MAINTAIN A WEB PAGE ON THE JUDICIAL
12 DEPARTMENT WEBSITE WITH RESOURCES AND INFORMATION ON
13 COURT-ORDERED RESTITUTION;

14 (d) ASSIST WITH TRAINING RELATED TO THE ADMINISTRATION OF
15 THE RESTITUTION SYSTEM;

16 (e) ENHANCE COMMUNICATIONS FOR POSTSENTENCE RESTITUTION;

17 AND

18 (f) COLLABORATE WITH VICTIM ADVOCACY PROGRAMS.

19 (3)(a) A VICTIM WHO IS OWED COURT-ORDERED RESTITUTION MAY
20 SUBMIT A REQUEST TO THE OFFICE TO PROVIDE SEMIANNUAL STATEMENTS
21 DETAILING THE RESTITUTION PAYMENTS THE DEFENDANT HAS MADE TO
22 THE VICTIM AND THE DISBURSEMENTS THE COURT HAS MADE TO THE
23 VICTIM. THE STATEMENT MUST INCLUDE THE OUTSTANDING AMOUNT OF
24 COURT-ORDERED RESTITUTION OWED TO THE VICTIM.

25 (b) THE OFFICE SHALL VERIFY THE IDENTITY OF THE VICTIM
26 MAKING THE REQUEST DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION
27 TO ENSURE THE VICTIM IS OWED COURT-ORDERED RESTITUTION FOR THE

1 CASE.

2 (c) THE OFFICE SHALL NOT PROVIDE INFORMATION RELATED TO
3 COURT-ORDERED RESTITUTION TO OTHER VICTIMS IN THE SAME CASE OR
4 IN OTHER CASES IN WHICH THE VICTIM REQUESTS A SEMIANNUAL
5 STATEMENT PURSUANT TO SUBSECTION (3)(a) of this section.

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

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

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

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