

CHAPTER 43

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 15-1070

BY REPRESENTATIVE(S) Buckner, Kagan, Melton, Pettersen, Primavera, Young;
also SENATOR(S) Martinez Humenik, Cooke, Guzman, Lambert, Marble, Merrifield, Neville T., Newell, Roberts, Todd, Woods.

AN ACT**CONCERNING CHANGES TO THE CRIME PROFITS DISTRIBUTION STATUTE.**

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

SECTION 1. In Colorado Revised Statutes, 24-4.1-201, **amend** (1.5) (b) (I), (1.5) (c), (1.5) (d) (II), (1.5) (d) (III), (2), (3), (4), and (4.5); and **add** (1.5) (b.5) as follows:

24-4.1-201. Distribution of profits from crime - escrow account - civil suit by victim - definitions. (1.5) (b) (I) Any person who contracts with a person convicted of a crime in this state, or such person's representative or assignee, for payment of any profits from the crime of which such person is convicted shall pay to the crime victim services advisory board created in section 24-4.1-117.3 (1), referred to in this part 2 as the "board", any money that would otherwise by terms of the contract be paid to the convicted person or such person's representatives or assignees. The board shall ~~deposit the money in an escrow account for the benefit of any victim of the crime of which the person was convicted~~ DISTRIBUTE THE MONEY AS DESCRIBED IN PARAGRAPH (b.5) OF THIS SUBSECTION (1.5).

(b.5) IF THERE IS A COURT ORDER OF RESTITUTION IN THE CRIMINAL CASE RESULTING FROM THE CRIME THAT REMAINS UNPAID, ANY MONEY RECEIVED UNDER PARAGRAPH (b) OF THIS SUBSECTION (1.5) MUST FIRST BE APPLIED TO THAT ORDER OF RESTITUTION. IF THERE IS NO OUTSTANDING BALANCE FROM AN ORDER OF RESTITUTION OR THERE REMAINS ADDITIONAL MONEY, AND ALL VICTIMS ARE IDENTIFIED AND CAN BE LOCATED, THE MONEY RECEIVED OR THE REMAINING PORTION MUST BE APPORTIONED PRO RATA TO THE IDENTIFIED VICTIMS. FOR PURPOSES OF THIS SECTION, "VICTIM" HAS THE SAME MEANING AS IN SECTION 24-4.1-302 (5). IF ALL VICTIMS ARE NOT KNOWN OR CANNOT BE LOCATED, THE BOARD SHALL DEPOSIT THE REMAINING MONEY IN AN ESCROW ACCOUNT FOR THE

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

BENEFIT OF THE VICTIMS.

(c) UPON THE ESTABLISHMENT OF AN ESCROW ACCOUNT, any person who is a victim of the crime from which a convicted person receives profits under paragraph (b) of this subsection (1.5) may, within ~~five~~ THREE years of establishment of the escrow account, enforce any ~~order of restitution~~ JUDGMENT entered against the convicted person against the ~~moneys~~ MONEY on deposit in the escrow account. If no ~~order of restitution~~ JUDGMENT has been entered, the victim may bring a civil action in a court of competent jurisdiction to recover a judgment against the convicted person or such person's representatives or designees. AFTER ALL FILED CLAIMS ARE ESTABLISHED, THE BOARD SHALL DISTRIBUTE THE MONEY IN THE ESCROW ACCOUNT TO SATISFY THE CLAIMS, OR SUCH FRACTION OF EACH CLAIM AS CAN BE FULFILLED BY THE AVAILABLE MONEY.

(d) (II) UNLESS ALL VICTIMS HAVE BEEN IDENTIFIED AND CAN BE LOCATED, the board ~~in addition~~ shall publish at least once annually from the date of the establishment of the escrow account, a notice of the escrow account's establishment in a newspaper having general circulation throughout the county in which the crime was committed. The expenses of notification shall be paid from the amount received in the escrow account. The board, in its discretion, may provide for such additional notice as it deems necessary.

(III) The notice required under subparagraphs (I) and (II) of this paragraph (d) shall specify the existence of the escrow account, the amount on deposit, and the victim's right to execute an order of restitution or bring a civil action to recover against the moneys in the escrow account within ~~five~~ THREE years after the date the escrow account is established.

(2) If funds remain in the escrow account after payment of a money judgment pursuant to subsection (1) of this section and if no civil actions are pending under this section after ~~five~~ THREE years from the establishment of an escrow account, the board shall notify the department of corrections of the existence of such escrow account. The department of corrections shall certify to the board a statement of the costs of maintenance of the person in the state correctional institution or institutions at which the person was incarcerated. A statement of the cost of maintenance shall be submitted annually for payment to the department of corrections by the board until such time as the person is released from custody of the state. No such payment shall be made upon the dismissal of the charges against any individual whose proceeds are placed in the escrow account.

(3) Upon the dismissal of the charges against any individual whose proceeds are placed in the escrow account or upon a showing by the defendant that ~~five~~ THREE years have elapsed from the establishment of an escrow account and that no civil actions are pending against him or her under this section, the board shall immediately pay any money in the escrow account to the defendant except for funds paid to the department of corrections and anticipated as necessary for future payment to the department of corrections as set forth in subsection (2) of this section.

(4) If an escrow account is established under this section, no otherwise applicable statute of limitations on the time within which civil action may be brought bars

action by a victim of a crime committed by the person accused or convicted of the crime, as to a claim resulting from the crime, until ~~five~~ ^{THREE} years have elapsed from the time the escrow account was established.

(4.5) The escrow account shall be established for a period of ~~five~~ ^{THREE} years. If an action is filed by a victim to recover the victim's interest in the escrow account within such ~~five-year~~ ^{THREE-YEAR} period, the escrow account shall continue until the conclusion of such action.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 20, 2015