

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

SB22-043 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

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

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

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

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

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

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

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

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

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

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

30 (a) To expand the list of allowable restitution expenses that are
31 relevant to the crime; and

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

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

36 **18-1.3-602. Definitions.** As used in this part 6, unless the context
37 otherwise requires:

38 (2.2) "CRITICAL STAGES" MEANS THE STAGES OF THE CRIMINAL
39 JUSTICE PROCESS AS DESCRIBED IN SECTION 24-4.1-302 (2).

1 (3.7) "TRAVEL EXPENSES" MEANS EXPENSES INCURRED BY
2 AIRPLANE, TRAIN, BUS, OR CAR TRAVEL, INCLUDING BAGGAGE FEES
3 INCURRED BY TRAVEL EXPENSES; FARES FOR TRANSPORTATION TO AND
4 FROM THE AIRPORT, TRAIN STATION, BUS STATION, OR HOTEL TO THE
5 COURT PROCEEDING OR SECURE SITE; RENTAL CAR EXPENSES OR THE COST
6 OF OPERATING A PERSONAL VEHICLE EQUAL TO THE STANDARD MILEAGE
7 RATE ALLOWED PURSUANT TO 26 U.S.C. SEC. 162, AS AMENDED; AND
8 MEAL PER DIEM EQUAL TO THE STANDARD MEAL PER DIEM ALLOWED
9 PURSUANT TO 26 U.S.C. SEC. 162, AS AMENDED.

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

12 **18-1.3-603. Assessment of restitution - corrective orders.**

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

22 (b) FOLLOWING THE SUBMISSION OF INFORMATION PURSUANT TO
23 SUBSECTION (2)(a) OF THIS SECTION, THE COURT SHALL DETERMINE THE
24 SPECIFIC AMOUNT OF RESTITUTION WITHIN SIXTY-THREE DAYS, UNLESS
25 GOOD CAUSE IS SHOWN FOR EXTENDING THE TIME PERIOD WHEN THERE
26 ARE EXTENUATING CIRCUMSTANCES AFFECTING THE COURT'S ABILITY TO
27 DETERMINE RESTITUTION.

28 (c) IN COMPUTING RESTITUTION PURSUANT TO SUBSECTIONS (2)(a)
29 AND (2)(b) OF THIS SECTION, THE FOLLOWING EXPENSES ARE ALLOWABLE
30 IF RELEVANT TO THE CRIME, INCLUDING BUT NOT LIMITED TO:

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

34 (II) REIMBURSEMENT FOR INSURANCE DEDUCTIBLES, INCLUDING
35 DEDUCTIBLES FOR MEDICAL EXPENSES FOR PHYSICAL AND MENTAL
36 HEALTH ISSUES, PROPERTY DAMAGE OR LOSS, AND AUTOMOBILE DAMAGE
37 OR LOSS;

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

40 (IV) TRAVEL EXPENSES TO COURT HEARINGS IF THE VICTIM
41 TRAVELS OVER ONE HUNDRED MILES ONE WAY FROM THE LOCATION OF
42 THE COURT PROCEEDING OR WHEN THE VICTIM IS AWAY FROM HOME
43 LONGER THAN ONE DAY, REQUIRING AN OVERNIGHT STAY. A VICTIM MAY

1 RECEIVE TRAVEL EXPENSES FOR TRAVEL TO CRITICAL STAGES OF THE CASE
2 EXCEPT FOR THE CRITICAL STAGES DESCRIBED IN SECTION 24-4.1-302
3 (2)(a), (2)(a.5), (2)(a.7), (2)(e.5), (2)(k.3), (2)(n), (2)(p), (2)(q), (2)(u),
4 AND (2)(v).

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

7 (VI) CHILD CARE EXPENSES WHILE THE VICTIM PARTICIPATES IN
8 COURT PROCEEDINGS; AND

9 (VII) REIMBURSEMENT FOR LOST WAGES TO ATTEND A CRITICAL
10 STAGE OF THE CASE.

11 (d) NOTWITHSTANDING THE DETERMINATION OF RESTITUTION, AN
12 ORDER OF CONVICTION IS FINAL.

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

17 **SECTION 4.** In Colorado Revised Statutes, 16-18.5-106, add
18 (2.5) as follows:

19 **16-18.5-106. Restitution for persons sentenced to the**
20 **department of corrections.** (2.5) (a) NOTWITHSTANDING ANY PROVISION
21 OF THE LAW TO THE CONTRARY, THE EXECUTIVE DIRECTOR OF THE
22 DEPARTMENT OF CORRECTIONS SHALL ORDER THAT ANY FEDERAL
23 STIMULUS FUNDS AN INMATE RECEIVED IN THE INMATE'S BANK ACCOUNT
24 FROM THE FEDERAL GOVERNMENT'S "CORONAVIRUS AID, RELIEF, AND
25 ECONOMIC SECURITY ACT", PUB.L. 116-136, OR ANY SUBSEQUENT
26 FEDERAL STIMULUS FUNDING RELATED TO THE COVID-19 PANDEMIC, BE
27 DEDUCTED AND, SUBJECT TO THE LIMIT OF THE FEDERAL STIMULUS FUNDS
28 IN THE INMATE'S BANK ACCOUNT, PAID TOWARD ANY OUTSTANDING
29 COURT-ORDERED RESTITUTION RESULTING FROM A CRIMINAL CASE.

30 (b) ANY REMAINING FEDERAL STIMULUS FUNDS IN THE INMATE'S
31 BANK ACCOUNT MUST BE DISPERSED IN ACCORDANCE WITH SECTION
32 16-18.5-110.

33 **SECTION 5. Act subject to petition - effective date.** This act
34 takes effect at 12:01 a.m. on the day following the expiration of the
35 ninety-day period after final adjournment of the general assembly; except
36 that, if a referendum petition is filed pursuant to section 1 (3) of article V
37 of the state constitution against this act or an item, section, or part of this
38 act within such period, then the act, item, section, or part will not take
39 effect unless approved by the people at the general election to be held in
40 November 2022 and, in such case, will take effect on the date of the
41 official declaration of the vote thereon by the governor."

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