

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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