

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 17-0632.01 Jerry Barry x4341

HOUSE BILL 17-1071

HOUSE SPONSORSHIP

Wist and Lee,

SENATE SPONSORSHIP

Gardner and Kagan,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A PROCESS FOR REPAYMENT OF CERTAIN CRIMINAL**
102 **MONETARY AMOUNTS ORDERED BY THE COURT TO BE PAID**
103 **FOLLOWING CONVICTION.**

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>.)

The bill establishes a process for a person who has paid a monetary amount due to a criminal conviction to request a refund of the amount paid if:

- ! The conviction was overturned and either the charges were dismissed or the person was acquitted following a new

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

trial; or
! All or part of an order for restitution was reversed and the person paid more restitution than was ultimately ordered.
The bill directs the state court administrator to pay to the person, from amounts appropriated from the general fund, the amount of any refund found due.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 18-1.3-703 as
3 follows:

4 **18-1.3-703. Reimbursement of amounts paid following a**
5 **vacated conviction or amended order for restitution - petition.**

6 (1) THE FOLLOWING PERSONS ARE ELIGIBLE UNDER THIS SECTION FOR A
7 REFUND OF MONETARY PAYMENTS ACTUALLY PAID:

8 (a) A PERSON WHO PAID COURT-ORDERED FINES, FEES, COSTS,
9 SURCHARGES, RESTITUTION, INTEREST, OR OTHER MONETARY AMOUNTS
10 RESULTING FROM A CRIMINAL CONVICTION IN THIS STATE IF THE AMOUNT
11 PAID RELATES SOLELY TO A CONVICTION:

12 (I) THAT IS VACATED AFTER POSTCONVICTION PROCEEDINGS OR IS
13 OVERTURNED ON APPEAL; AND

14 (II) THE CHARGE ON WHICH THE CONVICTION WAS BASED IS
15 DISMISSED OR THE PERSON IS ACQUITTED OF THE CHARGE AFTER A NEW
16 TRIAL;

17 (b) A PERSON WHO PAID COURT-ORDERED RESTITUTION AND
18 INTEREST RESULTING FROM A CRIMINAL CONVICTION IN THIS STATE AND:

19 (I) THE RESTITUTION ORDERED BY THE DISTRICT COURT IS
20 REVERSED ON APPEAL; OR

21 (II) THE AMOUNT OF RESTITUTION ORDERED BY THE COURT IS
22 REVERSED ON APPEAL AND THE PERSON HAS PAID RESTITUTION OR

1 INTEREST IN EXCESS OF THE AMOUNT UPHELD ON APPEAL.

2 (2) (a) A PERSON MAY FILE A WRITTEN MOTION IN THE COURT IN
3 WHICH THE CONVICTION WAS ENTERED FOR A REFUND OF ANY MONETARY
4 AMOUNTS DESCRIBED IN SUBSECTION (1) OF THIS SECTION WITHIN ONE
5 YEAR AFTER THE PERSON BECOMES ELIGIBLE FOR THE REFUND. THE
6 ONE-YEAR TIME LIMIT IS JURISDICTIONAL AND MAY NOT BE EXTENDED BY
7 A COURT.

8 (b) THE MOVANT BEARS THE BURDEN OF PROVING BY A
9 PREPONDERANCE OF THE EVIDENCE THAT THE AMOUNT WAS ACTUALLY
10 PAID AND THAT IT IS ELIGIBLE FOR A REFUND PURSUANT TO SUBSECTION
11 (1) OF THIS SECTION. IF THE COURT FINDS THAT THE MOVANT HAS
12 ESTABLISHED ELIGIBILITY FOR A REFUND, THE COURT SHALL ISSUE AN
13 ORDER DIRECTING THE STATE COURT ADMINISTRATOR TO ISSUE A REFUND
14 FOR THE TOTAL MONETARY AMOUNT FOUND TO BE DUE.

15 (3) NOTHING IN THIS SECTION REQUIRES A VICTIM TO REPAY
16 RESTITUTION RECEIVED AS A RESULT OF A CRIMINAL CONVICTION.

17 **SECTION 2.** In Colorado Revised Statutes, **add** 13-3-114.5 as
18 follows:

19 **13-3-114.5. State court administrator - reimbursement of**
20 **monetary amounts paid following a vacated conviction or amended**
21 **order of restitution.** WITHIN TWENTY-EIGHT DAYS AFTER RECEIPT OF AN
22 ORDER FROM A DISTRICT COURT FOR PAYMENT OF A REFUND OF MONETARY
23 AMOUNTS PAID, THE STATE COURT ADMINISTRATOR SHALL ISSUE A REFUND
24 PAYMENT TO THE PERSON WHO ESTABLISHED ELIGIBILITY UNDER SECTION
25 18-1.3-703.

26 **SECTION 3. Effective date - applicability.** This act takes effect
27 upon passage and applies to convictions vacated and restitution orders

1 reversed on or after said date.

2 **SECTION 4. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, and safety.