

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0302.01 Alana Rosen x2606

SENATE BILL 22-043

SENATE SPONSORSHIP

Cooke,

HOUSE SPONSORSHIP

(None),

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING ENHANCING RESTITUTION SERVICES FOR VICTIMS.

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 information, the court shall determine the specific amount of restitution within 63 days. For cases involving juveniles, the deadline for a

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.

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;

11 (d) While a victim of a crime is legally entitled to request

1 restitution for losses related to the crime, the current restitution system in
2 Colorado is difficult for a victim to navigate;

3 (e) The current time frame to submit expenses to determine
4 restitution does not account for the victim's recovery from a life-altering
5 trauma;

6 (f) What qualifies as an allowable expense is subjective and varies
7 from jurisdiction to jurisdiction; and

8 (g) There is not a central agency with dedicated staff or consistent
9 messaging to guide a victim struggling to collect restitution money.

10 (2) Therefore, the general assembly finds that, to help restore a
11 victim, there must be efforts to support the victim in navigating the
12 restitution system, including:

13 (a) To provide additional time for a prosecuting attorney to submit
14 expenses on behalf of a victim;

15 (b) To expand the list of restitution expenses that must be
16 presumed valid and collectable by the prosecuting attorney and the court
17 if relevant to the crime;

18 (c) To establish a division of restitution planning group to analyze,
19 recommend, and coordinate the transition of restitution systems to a new
20 division of restitution services dedicated to serving and guiding a victim
21 through the restitution system as the victim continues to heal from the
22 trauma of a crime; and

23 (d) To create a new division of restitution services to centralize
24 restitution services for victims, defendants, and other state agencies.

25 **SECTION 2.** In Colorado Revised Statutes, 18-1.3-602, **add** (3.7)
26 as follows:

27 **18-1.3-602. Definitions.** As used in this part 6, unless the context

1 otherwise requires:

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; RENTAL CAR EXPENSES; THE COST OF OPERATING A
7 PERSONAL VEHICLE EQUAL TO THE STANDARD MILEAGE RATE ALLOWED
8 PURSUANT TO 26 U.S.C. SEC. 162, AS AMENDED; AND MEAL PER DIEM
9 EQUAL TO THE STANDARD MEAL PER DIEM ALLOWED PURSUANT TO 26
10 U.S.C. SEC. 162, AS AMENDED.

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

13 **18-1.3-603. Assessment of restitution - corrective orders.**

14 (2) (a) The court shall base its order for restitution upon information
15 presented to the court by the prosecuting attorney, who shall compile such
16 information through victim impact statements or other means to
17 determine the amount of restitution and the identities of the victims.
18 Further, the prosecuting attorney shall present this information to the
19 court prior to the order of conviction or within ~~ninety-one~~ ONE HUNDRED
20 AND EIGHTY-TWO days if it is not available prior to the order of
21 conviction; EXCEPT THAT IN A JUVENILE DELINQUENCY PROCEEDING, THE
22 PROSECUTING ATTORNEY SHALL PRESENT THIS INFORMATION TO THE
23 COURT PRIOR TO THE ORDER OF ADJUDICATION OR WITHIN NINETY-ONE
24 DAYS. The court may extend this date if it finds that there are extenuating
25 circumstances affecting the prosecuting attorney's ability to determine
26 restitution.

27 (b) FOLLOWING THE SUBMISSION OF INFORMATION PURSUANT TO

1 SUBSECTION (2)(a) OF THIS SECTION, THE COURT SHALL DETERMINE THE
2 SPECIFIC AMOUNT OF RESTITUTION WITHIN SIXTY-THREE DAYS, UNLESS
3 GOOD CAUSE IS SHOWN FOR EXTENDING THE TIME PERIOD WHEN THERE
4 ARE EXTENUATING CIRCUMSTANCES AFFECTING THE COURT'S ABILITY TO
5 DETERMINE RESTITUTION.

6 (c) IN COMPUTING RESTITUTION PURSUANT TO SUBSECTIONS (2)(a)
7 AND (2)(b) OF THIS SECTION, THE PROSECUTING ATTORNEY AND THE
8 COURT SHALL PRESUME THE FOLLOWING EXPENSES TO BE VALID AND
9 COLLECTABLE IF RELEVANT TO THE CRIME, INCLUDING BUT NOT LIMITED
10 TO:

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

14 (II) REIMBURSEMENT FOR INSURANCE DEDUCTIBLES, INCLUDING
15 DEDUCTIBLES FOR MEDICAL EXPENSES FOR PHYSICAL AND MENTAL
16 HEALTH ISSUES, PROPERTY DAMAGE OR LOSS, AND AUTOMOBILE DAMAGE
17 OR LOSS;

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

20 (IV) TRAVEL EXPENSES TO COURT HEARINGS IF THE VICTIM
21 TRAVELS OVER ONE HUNDRED MILES FROM THE LOCATION OF THE COURT
22 PROCEEDING OR WHEN THE VICTIM IS AWAY FROM HOME LONGER THAN
23 ONE DAY, REQUIRING AN OVERNIGHT STAY;

24 (V) CHILD CARE EXPENSES WHILE THE VICTIM PARTICIPATES IN
25 COURT PROCEEDINGS;

26 (VI) REWARDS THE VICTIM PAYS OUT-OF-POCKET AND
27 ASSOCIATED COSTS, INCLUDING ANONYMOUS TIP HOTLINE FEES,

1 ADVERTISING, AND INVESTIGATIVE FEES; AND

2 (VII) COSTS THE VICTIM INCURS TO PARTICIPATE VIRTUALLY IN
3 COURT PROCEEDINGS.

4 (d) NOTWITHSTANDING THE DETERMINATION OF RESTITUTION, AN
5 ORDER OF CONVICTION IS FINAL.

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

10 **SECTION 4.** In Colorado Revised Statutes, **add** part 8 to article
11 1 of title 26 as follows:

12 PART 8

13 DIVISION OF RESTITUTION SERVICES

14 **26-1-801. Definitions.** AS USED IN THIS PART 8, UNLESS THE
15 CONTEXT OTHERWISE REQUIRES:

16 (1) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF
17 RESTITUTION SERVICES CREATED PURSUANT TO SECTION 26-1-802.

18 (2) "DIVISION OF RESTITUTION SERVICES" OR "DIVISION" MEANS
19 THE DIVISION OF RESTITUTION SERVICES CREATED IN SECTION 26-1-802.

20 (3) "DIVISION OF RESTITUTION SERVICES PLANNING GROUP" OR
21 "PLANNING GROUP" MEANS THE DIVISION OF RESTITUTION SERVICES
22 PLANNING GROUP CREATED IN SECTION 26-1-801.5.

23 (4) "OFFICE OF ECONOMIC SECURITY" MEANS THE OFFICE WITHIN
24 THE STATE DEPARTMENT THAT IS RESPONSIBLE FOR ECONOMIC SECURITY.

25 **26-1-801.5. Division of restitution services planning group -**
26 **created - report - repeal.** (1) (a) THERE IS CREATED IN THE OFFICE OF
27 ECONOMIC SECURITY THE DIVISION OF RESTITUTION SERVICES PLANNING

1 GROUP. THE PURPOSE OF THE PLANNING GROUP IS TO DEVELOP A PLAN TO
2 CREATE AND IMPLEMENT A NEW DIVISION OF RESTITUTION SERVICES
3 WITHIN THE OFFICE OF ECONOMIC SECURITY. THE PLANNING GROUP SHALL
4 CONSIDER AND INCORPORATE INFORMATION, RECOMMENDATIONS, AND
5 BEST PRACTICES INTO THE PLAN THAT, AT A MINIMUM, MUST INCLUDE:

6 (I) DRAFTING A MISSION STATEMENT;

7 (II) RECOMMENDING ADDITIONAL LEGISLATION TO THE GENERAL
8 ASSEMBLY FOR THIS PART 8;

9 (III) IDENTIFYING WHAT INTERAGENCY AGREEMENTS ARE NEEDED
10 TO ENSURE COLLABORATION AND DATA SHARING;

11 (IV) PLANNING TRANSITION OF FUNCTIONS TO THE DIVISION OF
12 RESTITUTION SERVICES;

13 (V) CREATING A TIMELINE FOR ACTION ITEMS TO LAUNCH THE
14 DIVISION OF RESTITUTION SERVICES;

15 (VI) DETERMINING STAFFING REQUIREMENTS, INCLUDING AN
16 ADVOCATE TO GUIDE VICTIMS THROUGH THE RESTITUTION PROCESS;

17 (VII) RESEARCHING THE BENEFITS OF AND RECOMMENDING A
18 CENTRAL STATE RESTITUTION CASE REGISTRY SYSTEM; AND

19 (VIII) ANALYZING AND RECOMMENDING CHANGES TO THE
20 RESTITUTION SYSTEM PROCESS.

21 (b) THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT OR THE
22 EXECUTIVE DIRECTOR'S DESIGNEE SHALL MAKE APPOINTMENTS TO THE
23 PLANNING GROUP ON OR BEFORE AUGUST 1, 2022. THE EXECUTIVE
24 DIRECTOR OF THE STATE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S
25 DESIGNEE SHALL APPOINT TWELVE MEMBERS, AS FOLLOWS:

26 (I) THE DIRECTOR OF THE PLANNING GROUP, WHO IS AN EMPLOYEE
27 OF THE STATE DEPARTMENT;

1 (II) ONE REPRESENTATIVE FROM THE OFFICE WITHIN THE
2 DEPARTMENT OF PUBLIC SAFETY THAT IS RESPONSIBLE FOR VICTIMS
3 PROGRAMS;

4 (III) ONE REPRESENTATIVE FROM THE OFFICE OF ECONOMIC
5 SECURITY;

6 (IV) ONE REPRESENTATIVE FROM THE COLORADO DISTRICT
7 ATTORNEYS' COUNCIL;

8 (V) ONE REPRESENTATIVE FROM A LEGAL ADVOCACY GROUP;

9 (VI) ONE REPRESENTATIVE FROM THE DEPARTMENT OF
10 CORRECTIONS;

11 (VII) ONE REPRESENTATIVE FROM THE DEPARTMENT OF PUBLIC
12 SAFETY;

13 (VIII) ONE REPRESENTATIVE FROM THE JUDICIAL BRANCH;

14 (IX) ONE REPRESENTATIVE FROM AN ORGANIZATION THAT
15 REPRESENTS COLORADO VICTIMS;

16 (X) ONE REPRESENTATIVE FROM A COMMUNITY-BASED VICTIM
17 ADVOCACY GROUP; AND

18 (XI) TWO REPRESENTATIVES WHO HAVE TRIED TO COLLECT
19 RESTITUTION.

20 (2) THE TERM OF THE APPOINTMENT FOR EACH MEMBER OF THE
21 PLANNING GROUP IS FOR THE DURATION OF THE PLANNING GROUP. THE
22 EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT OR THE EXECUTIVE
23 DIRECTOR'S DESIGNEE SHALL FILL ANY VACANCIES SUBJECT TO THE SAME
24 QUALIFICATIONS AS THE INITIAL APPOINTMENT.

25 (3) EACH MEMBER OF THE PLANNING GROUP SERVES WITHOUT
26 COMPENSATION, BUT EACH MEMBER IS ENTITLED TO COMPENSATION FOR
27 ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF

1 THE MEMBER'S DUTIES.

2 (4) THE DIRECTOR OF THE PLANNING GROUP SHALL CONVENE THE
3 FIRST MEETING OF THE PLANNING GROUP NO LATER THAN SEPTEMBER 15,
4 2022. THE DIRECTOR OF THE PLANNING GROUP SHALL DETERMINE A
5 SCHEDULE AS NECESSARY TO ALLOW THE PLANNING GROUP TO SUBMIT ITS
6 FINAL PLAN, AS REQUIRED BY SUBSECTION (6) OF THIS SECTION. THE
7 DIRECTOR MAY CALL FOR ADDITIONAL MEETINGS AS NECESSARY FOR THE
8 PLANNING GROUP TO FULFILL ITS DUTIES. THE PLANNING GROUP SHALL
9 ESTABLISH PROCEDURES TO ALLOW MEMBERS OF THE PLANNING GROUP TO
10 PARTICIPATE IN MEETINGS REMOTELY.

11 (5) THE PLANNING GROUP SHALL CONSULT WITH ADDITIONAL
12 STAKEHOLDERS AS NECESSARY TO ADDRESS ALL ADDITIONAL QUESTIONS
13 TO FINALIZE ITS PLAN.

14 (6) ON OR BEFORE MARCH 1, 2023, THE PLANNING GROUP SHALL
15 SUBMIT ITS FINAL PLAN, INCLUDING ITS FINDINGS AND RECOMMENDATIONS
16 ON THE ISSUES IDENTIFIED IN SUBSECTION (1)(a) OF THIS SECTION TO THE
17 JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND OF THE
18 SENATE, OR ANY SUCCESSOR COMMITTEES; THE GOVERNOR; AND THE
19 STATE DEPARTMENT.

20 (7) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2024.

21 **26-1-802. Division of restitution services - created - duties.**

22 (1) THERE IS CREATED IN THE STATE DEPARTMENT'S OFFICE OF ECONOMIC
23 SECURITY THE DIVISION OF RESTITUTION SERVICES. THE HEAD OF THE
24 DIVISION IS THE DIRECTOR OF THE DIVISION OF RESTITUTION SERVICES.
25 THE DIRECTOR IS APPOINTED BY THE GOVERNOR.

26 (2) THE DIVISION SHALL EXERCISE ITS POWERS AND PERFORM ITS
27 DUTIES AND FUNCTIONS UNDER THE OFFICE OF ECONOMIC SECURITY AS IF

1 THE DIVISION WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE 2**
2 TRANSFER AS SUCH TRANSFER IS DEFINED IN THE "ADMINISTRATIVE
3 ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24.

4 (3) PURSUANT TO THE PLANNING GROUP'S RECOMMENDATIONS SET
5 FORTH IN SECTION 26-1-801.5 (1)(a), THE DIVISION HAS THE FOLLOWING
6 DUTIES:

7 (a) TO COORDINATE WITH THE PLANNING GROUP TO IMPLEMENT
8 THE PLANNING GROUP'S RECOMMENDATIONS;

9 (b) TO COLLABORATE WITH STATE AGENCIES TO SUPPORT A
10 CENTRALIZED STATE RESTITUTION CASE REGISTRY SYSTEM;

11 (c) TO SUPPORT AND GUIDE VICTIMS SEEKING RESTITUTION;

12 (d) TO ADVOCATE TO THE GENERAL ASSEMBLY AND STATE
13 AGENCIES ON BEHALF OF VICTIMS NAVIGATING THE CENTRALIZED STATE
14 RESTITUTION CASE REGISTRY SYSTEM; AND

15 (e) TO EDUCATE VICTIMS, DEFENDANTS, AND OTHER STATE
16 AGENCIES ON THE CENTRALIZED STATE RESTITUTION CASE REGISTRY
17 SYSTEM.

18 (4) THE DIRECTOR HAS THE FOLLOWING DUTIES:

19 (a) TO COLLABORATE WITH THE DIRECTOR OF THE PLANNING
20 GROUP, DESCRIBED IN SECTION 26-1-801.5 (1)(b)(I), TO IMPLEMENT THE
21 RECOMMENDATIONS OF THE PLANNING GROUP SET FORTH IN SECTION
22 26-1-801.5 (1)(a);

23 (b) TO APPOINT EMPLOYEES AS NECESSARY TO CARRY OUT THE
24 PROVISIONS OF LAW PURSUANT TO THIS PART 8;

25 (c) TO DEVELOP STRATEGIC ACTION PLANS AND OBJECTIVES TO
26 MAKE RESTITUTION EASILY AVAILABLE TO EVERY VICTIM ENTITLED TO IT;

27 (d) TO PROMOTE TRANSPARENCY IN DIVISION OPERATIONS;

1 (e) TO REPRESENT THE DIVISION AND RECIPIENTS OF RESTITUTION;

2 (f) TO COMMUNICATE TO THE PUBLIC THAT RESTITUTION IS A
3 RIGHT IN COLORADO; AND

4 (g) TO PERFORM ANY ADDITIONAL DUTIES THE PLANNING GROUP
5 MAY DESIGNATE AS SET FORTH IN 26-1-801.5 (1)(a).

6 **SECTION 5.** In Colorado Revised Statutes, 24-1-120, **add** (13)
7 as follows:

8 **24-1-120. Department of human services - creation.** (13) THE
9 DIVISION OF RESTITUTION SERVICES CREATED IN SECTION 26-1-802 SHALL
10 EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS AS IF THE
11 DIVISION WERE TRANSFERRED BY A **TYPE 2** TRANSFER, AS DEFINED IN
12 SECTION 24-1-105, TO THE DEPARTMENT OF HUMAN SERVICES.

13 **SECTION 6. Effective date.** This act takes effect upon passage;
14 except that section 26-1-802, Colorado Revised Statutes, as enacted in
15 section 4 of this act, takes effect July 1, 2023.

16 **SECTION 7. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, or safety.