

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0481.02 Jerry Barry x4341

SENATE BILL 16-065

SENATE SPONSORSHIP

Steadman, Aguilar, Jahn, Merrifield, Ulibarri

HOUSE SPONSORSHIP

Lee,

Senate Committees

Judiciary
Appropriations

House Committees

Judiciary

A BILL FOR AN ACT

101 **CONCERNING CRIMINAL RESTITUTION.**

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://www.leg.state.co.us/billsummaries>.)

The bill specifies that the amount of restitution and whether interest accrues on the amount due may be negotiated as part of a plea agreement. It also specifies that a restitution order is in effect for only 2 years after the defendant's death.

Under current law, interest accrues on unpaid restitution amounts at the rate of 12% per annum. The bill provides that an order of restitution may include interest at the simple rate of 3% per annum but that it does not accrue while a defendant is incarcerated or is current on a payment

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.

SENATE
3rd Reading Unamended
April 6, 2016

SENATE
Amended 2nd Reading
April 5, 2016

plan. The bill specifies that an order of restitution that does not state that interest accrues may not be modified to include the accrual of interest.

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

2 SECTION 1. In Colorado Revised Statutes, 18-1.3-603, amend
3 (4) (a), (4) (b) introductory portion, and (4) (b) (I); and add (4) (e) as
4 follows:

5 18-1.3-603. Assessment of restitution - corrective orders.
6 (4) (a) (I) Any order for restitution entered pursuant to this section shall
7 be IS a final civil judgment in favor of the state and any victim.
8 Notwithstanding any other civil or criminal statute or rule, any such
9 judgment shall remain REMAINS in force until the restitution is paid in
10 full. The provisions of article 18.5 of title 16, C.R.S., apply
11 notwithstanding the termination of a deferred judgment and sentence or
12 a deferred adjudication, THE ENTRY OF AN ORDER OF EXPUNGEMENT
13 PURSUANT TO SECTION 19-1-306, C.R.S., OR AN ORDER TO SEAL ENTERED
14 PURSUANT TO PART 7 OF ARTICLE 72 OF TITLE 24, C.R.S.

15 (II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF
16 THIS PARAGRAPH (a), TWO YEARS AFTER THE PRESENTATION OF THE
17 DEFENDANT'S ORIGINAL DEATH CERTIFICATE TO THE CLERK OF THE COURT
18 OR THE COURT COLLECTIONS INVESTIGATOR, THE COURT MAY TERMINATE
19 THE REMAINING BALANCE OF THE JUDGMENT AND ORDER FOR RESTITUTION
20 IF, FOLLOWING NOTICE BY THE CLERK OF THE COURT OR THE COURT
21 COLLECTIONS INVESTIGATOR TO THE DISTRICT ATTORNEY, THE DISTRICT
22 ATTORNEY DOES NOT OBJECT AND THERE IS NO EVIDENCE OF A
23 CONTINUING SOURCE OF INCOME OF THE DEFENDANT TO PAY RESTITUTION.
24 THE TERMINATION OF A JUDGMENT AND ORDER PURSUANT TO THIS
25 SUBPARAGRAPH (II) DOES NOT TERMINATE AN ASSOCIATED JUDGMENT

1 AGAINST A DEFENDANT WHO IS JOINTLY AND SEVERALLY LIABLE WITH THE
2 DECEASED DEFENDANT.

3 (b) Any order for restitution made pursuant to this section shall IS
4 also be deemed to AN order that:

5 (I) The defendant owes SIMPLE interest from the date of the entry
6 of the order at the rate of ~~twelve~~ EIGHT percent per annum; and

7 (e) THE CLERK OF THE COURT IS AUTHORIZED TO ADJUST THE
8 UNPAID BALANCE IN THE CASE UPON PROOF THAT ANY RESTITUTION OR
9 RELATED INTEREST AMOUNTS HAVE BEEN OR WILL BE SATISFIED OUTSIDE
10 OF THE COURT REGISTRY AND RECEIPTING PROCESS REGARDLESS OF WHEN
11 THE RESTITUTION ORDER AND JUDGMENT WERE ENTERED. THE
12 ACCOUNTING ADJUSTMENT DOES NOT MODIFY A COURT'S ORDER.

13 **SECTION 2.** In Colorado Revised Statutes, 42-2-125, **repeal**
14 (2.8) as follows:

15 **42-2-125. Mandatory revocation of license and permit.** (2.8) A
16 person whose license has been revoked pursuant to paragraph (o) of
17 subsection (1) of this section shall not be eligible for reinstatement of his
18 or her license until the department receives proof that the person has
19 satisfied any order for restitution entered in connection with the
20 conviction.

21 **SECTION 3.** In Colorado Revised Statutes, 19-1-306, **add** (5) (c)
22 (II.5); and **repeal** (7) (e) as follows:

23 **19-1-306. Expungement of juvenile delinquent records.**
24 (5) (c) The court may order expunged all records in the petitioner's case
25 in the custody of the court and any records in the custody of any other
26 agency or official if at the hearing the court finds that:

27 (II.5) (A) THE PETITIONER HAS SATISFIED COURT-ORDERED

1 RESTITUTION OR IS CURRENT ON A RESTITUTION REPAYMENT AGREEMENT
2 WITH THE COURT COLLECTIONS INVESTIGATOR THAT HAS BEEN ENTERED
3 IN THE ELECTRONIC CASE RECORD TO MAKE PAYMENT ON A SCHEDULE
4 PURSUANT TO SECTION 16-18.5-104 (4), C.R.S.

5 (B) IF, FOLLOWING THE ENTRY OF AN ORDER OF EXPUNGEMENT
6 UNDER THIS SECTION, A PETITIONER FAILS TO MAKE REQUIRED PAYMENTS
7 ON A RESTITUTION REPAYMENT AGREEMENT, A COURT COLLECTIONS
8 INVESTIGATOR MAY, FOLLOWING NOTICE TO THE PETITIONER, FILE A
9 MOTION WITH THE COURT THAT ENTERED THE ORDER TO HAVE THE ORDER
10 OF EXPUNGEMENT REVERSED.

11 (7) The following persons are not eligible to petition for the
12 expungement of any juvenile record:

13 (e) Any person who has failed to pay court-ordered restitution to
14 a victim of the offense that is the basis for the juvenile record.

15 **SECTION 4.** In Colorado Revised Statutes, **amend** 16-18.5-111
16 as follows:

17 **16-18.5-111. Effect of termination of deferred judgment and**
18 **sentence or deferred adjudication, expungement, or sealing.** The
19 provisions of this article apply notwithstanding the termination of a
20 deferred judgment and sentence or a deferred adjudication, THE ENTRY OF
21 AN ORDER OF EXPUNGEMENT PURSUANT TO SECTION 19-1-306, C.R.S., OR
22 AN ORDER TO SEAL ENTERED PURSUANT TO PART 7 OF ARTICLE 72 OF TITLE
23 24, C.R.S.

24 **SECTION 5. Effective date - applicability.** This act takes effect
25 July 1, 2016, and applies to orders entered on or after said date and to
26 existing instances or future instances in which an offender's death
27 certificate has been presented to the clerk of the court or the court

1 collections investigator.

2 **SECTION 6. 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.