

CHAPTER 277

CRIMINAL LAW AND PROCEDURE

SENATE BILL 16-065

BY SENATOR(S) Steadman, Aguilar, Jahn, Merrifield, Ulibarri, Guzman, Heath, Johnston, Kefalas, Kerr, Newell, Todd;
also REPRESENTATIVE(S) Lee, Arndt, Becker K., Fields, Kagan, Kraft-Tharp, Lebsock, Lontine, Melton, Pettersen, Ryden,
Williams, Hullinghorst.

AN ACT

CONCERNING CRIMINAL RESTITUTION.

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

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

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

(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), TWO YEARS AFTER THE PRESENTATION OF THE DEFENDANT'S ORIGINAL DEATH CERTIFICATE TO THE CLERK OF THE COURT OR THE COURT COLLECTIONS INVESTIGATOR, THE COURT MAY TERMINATE THE REMAINING BALANCE OF THE JUDGMENT AND ORDER FOR RESTITUTION IF, FOLLOWING NOTICE BY THE CLERK OF THE COURT OR THE COURT COLLECTIONS INVESTIGATOR TO THE DISTRICT ATTORNEY, THE DISTRICT ATTORNEY DOES NOT OBJECT AND THERE IS NO EVIDENCE OF A CONTINUING SOURCE OF INCOME OF THE DEFENDANT TO PAY RESTITUTION. THE TERMINATION OF A JUDGMENT AND ORDER PURSUANT TO THIS SUBPARAGRAPH (II) DOES NOT TERMINATE AN ASSOCIATED JUDGMENT AGAINST A DEFENDANT WHO IS JOINTLY AND SEVERALLY LIABLE WITH THE DECEASED DEFENDANT.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(b) Any order for restitution made pursuant to this section ~~shall~~ is also ~~be deemed~~ to AN order that:

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

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

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

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

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

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

(II.5) (A) THE PETITIONER HAS SATISFIED COURT-ORDERED RESTITUTION OR IS CURRENT ON A RESTITUTION REPAYMENT AGREEMENT WITH THE COURT COLLECTIONS INVESTIGATOR THAT HAS BEEN ENTERED IN THE ELECTRONIC CASE RECORD TO MAKE PAYMENT ON A SCHEDULE PURSUANT TO SECTION 16-18.5-104(4), C.R.S.

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

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

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

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

16-18.5-111. Effect of termination of deferred judgment and sentence or deferred adjudication, expungement, or sealing. The provisions of this article

apply notwithstanding the termination of a deferred judgment and sentence or a deferred adjudication, THE ENTRY OF AN ORDER OF EXPUNGEMENT PURSUANT TO SECTION 19-1-306, C.R.S., OR AN ORDER TO SEAL ENTERED PURSUANT TO PART 7 OF ARTICLE 72 OF TITLE 24, C.R.S.

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

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 10, 2016