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**By: Delegates Dembrow, Genn, and Preis**

Introduced and read first time: February 2, 1996

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

**2 Juvenile Delinquents - Restitution - Delinquent Act Injuries Compensation Fund**

3 FOR the purpose of establishing a Delinquent Act Injuries Compensation Fund within  
4 the Department of Juvenile Justice; specifying the purpose of the Fund; specifying  
5 certain requirements of and relating to the Fund; requiring the Department of  
6 Juvenile Justice to administer the Fund; authorizing the juvenile court to order a  
7 child, parent of a child or both to make restitution payments to the Fund; specifying  
8 who a court may order to receive payments from the Fund; authorizing a court to  
9 require a child to earn compensation for the purpose of making restitution  
10 payments by performing community service in certain community service programs;  
11 requiring the Department to adopt certain regulations governing community service  
12 programs; authorizing a juvenile to be assigned to a work project under a  
13 community service program under certain circumstances; establishing priorities  
14 regarding the payment of victims and certain other persons from the Fund;  
15 requiring the Department to pay the victim or certain other persons even if certain  
16 persons have not paid the Fund; defining certain terms; providing for prospective  
17 application of this Act; and generally relating to restitution payments by juvenile  
18 delinquents.

19 BY adding to

20 Article 83C - Juvenile Justice  
21 Section 2-133  
22 Annotated Code of Maryland  
23 (1995 Replacement Volume)

24 BY repealing and reenacting, without amendments,

25 Article - Courts and Judicial Proceedings  
26 Section 3-801(k) and (t)  
27 Annotated Code of Maryland  
28 (1995 Replacement Volume and 1995 Supplement)

29 BY repealing and reenacting, with amendments,

30 Article - Courts and Judicial Proceedings  
31 Section 3-829  
32 Annotated Code of Maryland

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1 (1995 Replacement Volume and 1995 Supplement)

2 BY repealing and reenacting, without amendments,

3 Article 27 - Crimes and Punishments

4 Section 726A(a) and (i)

5 Annotated Code of Maryland

6 (1992 Replacement Volume and 1995 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article 27 - Crimes and Punishments

9 Section 726A(b) and (c)

10 Annotated Code of Maryland

11 (1992 Replacement Volume and 1995 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article 83C - Juvenile Justice**

15 2-133.

16 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
17 INDICATED.

18 (2) "DELINQUENT ACT" HAS THE MEANING STATED IN § 3-801(K) OF THE  
19 COURTS ARTICLE.

20 (3) "FUND" MEANS THE DELINQUENT ACT INJURIES COMPENSATION  
21 FUND.

22 (4) "VICTIM" HAS THE MEANING STATED IN § 3-801(T) OF THE COURTS  
23 ARTICLE.

24 (B) (1) THERE IS ESTABLISHED WITHIN THE DEPARTMENT A DELINQUENT  
25 ACT INJURIES COMPENSATION FUND.

26 (2) THE FUND IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS  
27 NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

28 (3) THE TREASURER SHALL SEPARATELY HOLD, AND THE  
29 COMPTROLLER SHALL ACCOUNT FOR, THE FUND.

30 (4) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME  
31 MANNER AS OTHER STATE FUNDS.

32 (5) ANY INVESTMENT EARNINGS OR FEDERAL MATCHING FUNDS  
33 RECEIVED BY THE STATE FOR DELINQUENT ACT INJURIES COMPENSATION SHALL  
34 BE RETAINED TO THE CREDIT OF THE FUND.

35 (6) THE FUND SHALL BE SUBJECT TO AN AUDIT BY THE OFFICE OF  
36 LEGISLATIVE AUDITS AS PROVIDED FOR IN § 2-1215 OF THE STATE GOVERNMENT  
37 ARTICLE.

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1 (7) THE FUND SHALL RECEIVE PAYMENTS FROM A CHILD OR PARENT  
2 ORDERED BY A COURT UNDER § 3-829 OF THE COURTS ARTICLE TO MAKE  
3 RESTITUTION AND PAYMENTS EARNED BY A CHILD ORDERED UNDER § 3-829(C) OF  
4 THE COURTS ARTICLE TO PERFORM COMMUNITY SERVICE.

5 (8) THE DEPARTMENT SHALL ADMINISTER THE FUND.

6 (9) THIS SECTION DOES NOT PROHIBIT THE FUND FROM RECEIVING  
7 FUNDS FROM ANY OTHER SOURCE.

8 (C) THE FUND SHALL BE USED TO PAY RESTITUTION TO A VICTIM OF A  
9 DELINQUENT ACT IN ACCORDANCE WITH A COURT ORDER UNDER § 3-829 OF THE  
10 COURTS ARTICLE.

11 (D) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPHS (2) AND (3) OF THIS  
12 SUBSECTION, AS ORDERED BY A COURT UNDER § 3-829 OF THE COURTS ARTICLE,  
13 PAYMENTS MAY BE MADE FROM THE DELINQUENT ACT INJURIES COMPENSATION  
14 FUND TO:

15 (I) THE VICTIM OF A DELINQUENT ACT;

16 (II) A GOVERNMENTAL ENTITY; OR

17 (III) A THIRD PARTY PAYOR, INCLUDING AN INSURER, THAT HAS  
18 MADE PAYMENT TO THE VICTIM TO COMPENSATE THE VICTIM FOR A PROPERTY  
19 LOSS UNDER § 3-829(A)(1)(I) OF THE COURTS ARTICLE OR PECUNIARY LOSS UNDER §  
20 3-829(A)(1)(II) OF THE COURTS ARTICLE.

21 (2) THE DEPARTMENT SHALL MAKE PAYMENTS FROM THE FUND EVEN  
22 IF THE FUND HAS NOT RECEIVED RESTITUTION PAYMENTS FROM THE CHILD OR  
23 THE PARENT OF THE CHILD AS ORDERED BY A COURT UNDER § 3-829 OF THE  
24 COURTS ARTICLE.

25 (3) (I) RESTITUTION PAYMENTS TO THE VICTIM OF A DELINQUENT  
26 ACT HAVE PRIORITY OVER RESTITUTION PAYMENTS TO A THIRD PARTY PAYOR.

27 (II) IF THE VICTIM OF A DELINQUENT ACT HAS BEEN  
28 COMPENSATED FOR THE VICTIM'S LOSS BY A THIRD PARTY PAYOR, THE  
29 DELINQUENT ACT INJURIES COMPENSATION FUND MAY MAKE RESTITUTION  
30 PAYMENTS TO THE THIRD PARTY PAYOR IN THE AMOUNT THAT THE THIRD PARTY  
31 PAYOR COMPENSATED THE VICTIM.

32 (4) PAYMENT OF RESTITUTION TO A VICTIM OF A DELINQUENT ACT  
33 UNDER THIS SECTION HAS PRIORITY OVER PAYMENT OF RESTITUTION TO A  
34 GOVERNMENTAL ENTITY.

35 **Article - Courts and Judicial Proceedings**

36 3-801.

37 (k) "Delinquent act" means an act which would be a crime if committed by an  
38 adult.

4

1 (t) (1) "Victim" means a person who suffers direct or threatened physical,  
2 emotional, or financial harm as a result of a delinquent act.

3 (2) "Victim" includes a family member of a minor, incompetent, or a  
4 homicide victim.

5 (3) "Victim" includes, if the victim is not an individual, the victim's agent or  
6 designee.

7 3-829.

8 (a) (1) The court may enter a judgment of restitution against the parent of a  
9 child, the child, or both in any case in which the court finds a child has committed a  
10 delinquent act and during or as a result of the commission of that delinquent act has:

11 (i) Stolen, damaged, destroyed, converted, unlawfully obtained, or  
12 substantially decreased the value of the property of another; or

13 (ii) Inflicted personal injury on another, requiring the injured person  
14 to incur medical, dental, hospital, funeral, or burial expenses; or

15 (iii) Caused the victim of the delinquent act to incur reasonable  
16 counseling expenses from a licensed health care provider, if the delinquent act involved:

17 1. Personal injury;

18 2. Child abuse under Article 27, [§ 35A] § 35C of the Code;

19 3. Abuse or neglect of vulnerable persons under Article 27, [§  
20 35B] § 35D of the Code;

21 4. Incest, rape, or sexual offense in any degree;

22 5. Sodomy under Article 27, § 553 of the Code; or

23 6. Unnatural or perverted sexual practices under Article 27, §  
24 554 of the Code.

25 (2) (I) The court may order the parent of a child, a child, or both to make  
26 THE restitution PAYMENT to THE DELINQUENT ACT INJURIES COMPENSATION FUND.

27 (II) THE COURT MAY ORDER PAYMENTS FROM THE FUND TO:

28 [(i)] 1. The victim OF A DELINQUENT ACT;

29 [(ii)] 2. [Any] A governmental entity, including the Criminal  
30 Injuries Compensation Board; or

31 [(iii)] 3. A third party payor, including an insurer, that has made  
32 payment to the victim to compensate the victim for a property loss under paragraph (1)(i)  
33 of this subsection or pecuniary loss under paragraph (1)(ii) of this subsection.

34 (3) (i) Restitution payments to the victim have priority over restitution  
35 payments to a third party payor.

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1 (ii) If the victim has been compensated for the victim's loss by a third  
2 party payor, the court may order restitution payments to the third party payor in the  
3 amount that the third party payor compensated the victim.

4 (4) Payment of restitution to a victim under this section has priority over  
5 payment of restitution to [any] A governmental entity.

6 (b) Considering the age and circumstances of a child, the court may order the  
7 child to make restitution to the wronged person personally.

8 (C) (1) AS PART OF THE COURT ORDER, THE COURT MAY REQUIRE A CHILD  
9 TO EARN COMPENSATION FOR THE PURPOSE OF MAKING THE RESTITUTION  
10 PAYMENTS BY PERFORMING COMMUNITY SERVICE IN A PROGRAM APPROVED BY  
11 THE DEPARTMENT.

12 (2) (I) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT  
13 SPECIFY THE ELIGIBILITY REQUIREMENTS FOR THE COMMUNITY SERVICE  
14 PROGRAMS FOR WHICH A COURT MAY REQUIRE A CHILD TO PERFORM SERVICES.

15 (II) THE REGULATIONS ADOPTED BY THE DEPARTMENT SHALL  
16 REQUIRE THE COMMUNITY SERVICE PROGRAMS TO PROVIDE:

17 1. YOUTH EMPLOYMENT OPPORTUNITIES THAT BENEFIT  
18 VICTIMS OF DELINQUENT ACTS; OR

19 2. MAINTENANCE OR IMPROVEMENT OF PUBLIC PROPERTY  
20 OR PROPERTY OWNED OR CONTROLLED BY CHARITABLE NONPROFIT AGENCIES OR  
21 INSTITUTIONS OF BENEFIT TO THE PUBLIC.

22 (D) A COMMUNITY SERVICE PROGRAM FOR WHICH A CHILD PERFORMS  
23 COMMUNITY SERVICE IN ACCORDANCE WITH A RESTITUTION ORDER UNDER THIS  
24 SECTION SHALL PAY THE MONEY EARNED BY THE CHILD TO THE DELINQUENT ACT  
25 INJURIES COMPENSATION FUND.

26 [(c)] (E) (1) A judgment rendered under this section may not exceed:

27 (i) As to property stolen, destroyed, converted, or unlawfully  
28 obtained, the lesser of the fair market value of the property or \$10,000;

29 (ii) As to property damaged, or substantially decreased in value, the  
30 lesser of the amount of damage or the decrease in value of the property not to exceed the  
31 fair market value of the property or \$10,000; and

32 (iii) As to personal injuries inflicted, the lesser of the actual medical,  
33 dental, hospital, funeral, and burial expenses incurred by the injured person as a result of  
34 the injury or \$10,000.

35 (2) As an absolute limit against any one child, his parents, or both, a  
36 judgment rendered under this section may not exceed \$10,000 for all acts arising out of a  
37 single incident.

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1 [(d)] (F) A restitution hearing to determine the liability of a parent, a child, or  
2 both, shall be held not later than 30 days after the disposition hearing and may be  
3 extended by the court for good cause.

4 [(e)] (G) A judgment of restitution against a parent may not be entered unless the  
5 parent has been afforded a reasonable opportunity to be heard and to present  
6 appropriate evidence in his behalf. A hearing under this section may beheld as part of an  
7 adjudicatory or disposition hearing for the child.

8 [(f)] (H) The judgment may be enforced in the same manner as enforcing  
9 monetary judgments.

10 [(g)] (I) The Department of Juvenile Justice is responsible for the collection of  
11 restitution payments when the restitution order provides that restitution is to be made in  
12 periodic or installment payments, as part of probation, or pursuant to a work plan.

13 **Article 27 - Crimes and Punishments**

14 726A.

15 (a) Each county and Baltimore City may establish a community service program.

16 (b) Except as otherwise provided, a court may assign or order a juvenile who is  
17 charged with the commission of a delinquent act, or a criminal defendant who has not  
18 been convicted of a crime of violence, to perform community service:

19 (1) As a condition of probation, whether granted under § 641 or § 641A of  
20 this article or otherwise;

21 (2) As a condition to a suspended sentence;

22 (3) In lieu of payment of any fines and court costs imposed; [or]

23 (4) As a condition of:

24 (i) A case being placed on a stet docket; or

25 (ii) A juvenile being subject to a diversionary program; OR

26 (5) AS PART OF A JUDGMENT OF RESTITUTION UNDER § 3-829 OF THE  
27 COURTS ARTICLE.

28 (c) (1) In this subsection, the term "crime of violence" has the same meaning  
29 stated in § 643B of this article.

30 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,  
31 [Criminal] CRIMINAL defendants or juveniles may be assigned to work projects under  
32 the community service program only if:

33 (i) Assignment to a work project is made with the consent of the  
34 juvenile or defendant;

35 (ii) The juvenile or defendant is not compensated for the work  
36 performed; and

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1 (iii) The defendant has not been convicted of a crime of violence.

2 (3) PARAGRAPH (2) OF THIS SUBSECTION DOES NOT APPLY TO A  
3 JUVENILE WHO IS ORDERED TO EARN COMPENSATION FOR THE PURPOSE OF  
4 MAKING RESTITUTION PAYMENTS BY PERFORMING COMMUNITY SERVICE UNDER §  
5 3-829(C) OF THE COURTS ARTICLE.

6 (i) (1) Any public or private agency that requests the assignment of a  
7 community service worker is responsible for supervising the worker.

8 (2) Any public or private agency must accept the assignment of a community  
9 service worker on the terms and conditions imposed by the court.

10 (3) Any public or private agency may report the unsuitability of a  
11 community service worker to the court. If a worker is reported to be unsuitable, the court  
12 shall remove the worker from a project and, after considering all the facts and  
13 circumstances, may reassign the worker or take other action allowed by law.

14 (4) Nothing in this section shall be construed as a limitation on the authority  
15 of the court to direct any juvenile or any defendant in a criminal case to make restitution  
16 to the victim of a particular crime or to perform certain services for the victim as an  
17 alternative means of restitution, either as a condition of probation, condition of  
18 suspended sentence or in lieu of payment of any fines or court costs imposed, under the  
19 supervision of the Division of Parole and Probation, the Department of Juvenile Justice,  
20 or any other agency or individual as directed by the court.

21 SECTION 2. AND BE IT FURTHER ENACTED, That the changes made by this  
22 Act shall be construed only prospectively and may not be applied or interpreted to have  
23 any effect on or application to any judgment for restitution that is entered by a court  
24 under § 3-829 of the Courts Article before the effective date of this Act.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 1996.