
By: **Senators Stone and Hughes (Committee to Revise Article 27 - Crimes and Punishments)**

Introduced and read first time: January 29, 2003

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Restitution**

3 FOR the purpose of requiring the Secretary of Public Safety and Correctional Services
4 to adopt certain regulations relating to the collection and distribution of the
5 earnings of inmates under the custody, jurisdiction, or supervision of the
6 Department of Public Safety and Correctional Services; altering the definition of
7 crime for purposes of restitution to include all statutory crimes with a certain
8 exception; altering the definition of victim to include a person who suffers death
9 as a result of a crime or delinquent act; expanding the circumstances under
10 which a judge may order a defendant or child respondent to make restitution;
11 providing that in a certain proceeding a written statement or bill is legally
12 sufficient evidence of certain facts; providing for the allocation of the burden of
13 proof if certain evidence is challenged; providing that a certain restitution
14 amount is the absolute limit for each child's acts arising out of a single incident;
15 adding a person who has paid an expense on behalf of a victim to the list of
16 third-party payors to whom the court may order restitution be paid; providing
17 that a payment of restitution to a victim has priority over payments owed to the
18 State for reimbursement on behalf of a child; repealing certain provisions
19 relating to compliance with a judgment of restitution; requiring that certain fees
20 that a restitution obligor is required to pay be remitted to the State Comptroller
21 for deposit into the State Victims of Crime Fund; requiring the Division of
22 Correction or the Department of Juvenile Justice to take certain actions when a
23 restitution obligor's restitution payment is overdue under certain
24 circumstances; removing a certain qualifier that a judgment of restitution must
25 be recorded and indexed in the civil judgment index before certain actions can be
26 taken and certain rights exercised; requiring a judgment of restitution ordered
27 by the District Court to be recorded and indexed by the Clerk of the District
28 Court; prohibiting a court from assessing costs against a certain person or
29 governmental unit under certain circumstances for filing a notice of satisfaction;
30 limiting to certain orders certain provisions of law relating to the termination of
31 a probation before a judgment of restitution has been recorded and indexed as a
32 money judgment; altering certain provisions relating to the execution on a
33 judgment of restitution if a certain motion has been filed; providing that any
34 money not claimed from a judgment of restitution after a certain notice be

1 remitted to the State Comptroller for deposit into the State Victims of Crime
2 Fund; providing that a court may make an exception to the prohibition against
3 the Central Collection Unit compromising and settling a judgment of restitution
4 without the consent of the victim; requiring certain persons to notify the Central
5 Collection Unit of certain facts under certain circumstances; making certain
6 technical changes; providing that certain notes contained in this Act are not law;
7 and generally relating to restitution and the earnings of inmates.

8 BY adding to
9 Article - Correctional Services
10 Section 2-119
11 Annotated Code of Maryland
12 (1999 Volume and 2002 Supplement)

13 BY repealing and reenacting, without amendments,
14 Article - Correctional Services
15 Section 11-604
16 Annotated Code of Maryland
17 (1999 Volume and 2002 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article - Criminal Law
20 Section 6-301(d)
21 Annotated Code of Maryland
22 (2002 Volume)

23 BY repealing and reenacting, with amendments,
24 Article - Criminal Procedure
25 Section 11-601, 11-603, 11-604, 11-606 through 11-608, 11-610 through
26 11-614, 11-616, and 11-617
27 Annotated Code of Maryland
28 (2001 Volume and 2002 Supplement)

29 BY repealing and reenacting, without amendments,
30 Article - Criminal Procedure
31 Section 11-609
32 Annotated Code of Maryland
33 (2001 Volume and 2002 Supplement)

34 BY adding to
35 Article - Criminal Procedure
36 Section 11-603.1
37 Annotated Code of Maryland
38 (2001 Volume and 2002 Supplement)

1 BY repealing
2 Article - Criminal Procedure
3 Section 11-615
4 Annotated Code of Maryland
5 (2001 Volume and 2002 Supplement)

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

8 **Article - Correctional Services**

9 2-119.

10 THE SECRETARY SHALL ADOPT REGULATIONS REGARDING THE COLLECTION
11 AND DISTRIBUTION OF THE EARNINGS OF INMATES UNDER THE CUSTODY,
12 JURISDICTION, OR SUPERVISION OF THE DEPARTMENT IN ACCORDANCE WITH TITLE
13 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE.

14 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The
15 recommended addition of this section is in response to the Correctional Services
16 Article Review Committee note following § 11-604 of the Correctional Services Article
17 which states that there are inconsistencies in the Code that need to be addressed
18 relating to the disposition of inmate earnings.

19 11-604.

20 (a) The Department shall collect an inmate's earnings.

21 (b) From an inmate's earnings, the Department shall:

22 (1) reimburse the county or State for the cost of providing food, lodging,
23 and clothing to the inmate in a local correctional facility;

24 (2) pay court ordered payments for support of dependents; and

25 (3) pay court ordered payments for restitution.

26 (c) The Department shall:

27 (1) credit to the inmate's account any balance that remains after paying
28 the items in subsection (b)(1) through (3) of this section; and

29 (2) pay the balance in the inmate's account to the inmate within 15 days
30 after the inmate is released.

1

Article - Criminal Law

2 6-301.

3 (d) (1) For purposes of this subsection, an act of "graffiti" means a
4 permanent drawing, permanent painting, or a permanent mark or inscription on the
5 property of another without the permission of the owner of the property.

6 (2) In addition to the penalties set forth in subsections (b) and (c) of this
7 section, the court shall order a person convicted of causing malicious destruction by
8 an act of graffiti to pay restitution or perform community service or both.

9 (3) IN MAKING A DISPOSITION ON A FINDING THAT A CHILD AT LEAST 13
10 YEARS OLD HAS COMMITTED AN ACT OF GRAFFITI UNDER THIS SUBSECTION, THE
11 COURT SHALL ORDER THE CHILD TO PERFORM COMMUNITY SERVICE OR PAY
12 RESTITUTION OR BOTH.

13 (4) Title 11, Subtitle 6 of the Criminal Procedure Article applies to an
14 order of restitution under this subsection.

15 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): Subsection
16 (d)(3) of this section is transferred without changes from former § 11-603(d) of the
17 Criminal Procedure Article.

18

Article - Criminal Procedure

19 11-601.

20 (a) In Part I of this subtitle the following words have the meanings indicated.

21 (b) "Central Collection Unit" means the Central Collection Unit in the
22 Department of Budget and Management.

23 (c) "Child" means a person under the age of 18 years.

24 (d) (1) "Crime" means an act committed by a person in the State that is a
25 crime under:

26 (i) common law;

27 (ii) [this article;

28 (iii) Title 1, Subtitle 3, Title 3, Subtitle 7, or § 4-123.1 of the
29 Agriculture Article;

30 (iv) Title 19, Subtitle 2 or Subtitle 3 of the Business Regulation
31 Article;

32 (v) Title 14, Subtitle 29, § 11-810, § 14-1316, or § 14-1317 of the
33 Commercial Law Article;

1 (vi) § 3-218, § 3-305(c)(2), § 3-409(a) or (c), § 3-803(b), § 3-807(i), §
 2 3-808(d), § 3-811(c), § 8-801, § 8-802, § 9-602(e), § 11-702(d)(8), § 11-703(d)(5)(iii), §
 3 11-706(b)(8), § 11-708(b)(8)(ii), § 11-711(h)(2), § 11-712(c)(6)(ii), § 11-714(c)(6), §
 4 11-715(g)(2), § 11-716(h)(2), § 11-723(b)(8), or § 11-726 of the Correctional Services
 5 Article;

6 (vii) the Criminal Law Article other than Title 8, Subtitle 2, Part II
 7 or § 10-614;

8 (viii) Title 5, Subtitle 10A of the Environment Article;

9 (ix) § 5-503 of the Family Law Article;

10 (x) Title 20, Subtitle 7 or § 21-259.1 of the Health - General
 11 Article;

12 (xi) § 8-713.1, § 8-724.1, § 8-725.5, § 8-725.6, § 8-726.1, § 8-738.1,
 13 or § 8-740.1 of the Natural Resources Article;

14 (xii) § 14-127 of the Real Property Article;

15 (xiii) Article 2B, Title 22 or § 18-104 of the Code;

16 (xiv) Article 24, § 11-512, § 11-513, or § 11-514 of the Code;

17 (xv) § 109 of the Code of Public Local Laws of Caroline County;

18 [(xvi)] (III) § 4-103 of the Code of Public Local Laws of Carroll
 19 County; [or]

20 [(xvii)] (IV) § 8A-1 of the Code of Public Local Laws of Talbot County;
 21 OR

22 (V) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
 23 IN THE CODE.

24 (2) "Crime" [includes] DOES NOT INCLUDE a violation of the
 25 Transportation Article that is NOT punishable by a term of confinement.

26 (e) "Defendant" means a person:

27 (1) who has received probation before judgment;

28 (2) who has been found guilty of a crime, even if the defendant has been
 29 found not criminally responsible; or

30 (3) whose plea of nolo contendere to a crime has been accepted by the
 31 court.

32 (f) "Division" means the Division of Parole and Probation.

1 (g) "Judgment of restitution" means a direct order for payment of restitution
2 or an order for payment of restitution that is a condition of probation in an order of
3 probation.

4 (h) "Liable parent" means a parent:

5 (1) whose child has committed a crime or delinquent act; and

6 (2) who has been ordered to pay restitution under § 11-604 of this
7 subtitle.

8 (i) "Restitution obligor" means a defendant, child respondent, or liable parent
9 against whom a judgment of restitution has been entered.

10 (j) "Victim" means:

11 (1) a person who suffers DEATH, personal [injury] INJURY, or property
12 damage or loss as a direct result of a crime or delinquent act; or

13 (2) if the person is deceased, the personal representative of the estate of
14 the person.

15 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The current
16 definition of crime is too narrow and may exclude victims who should receive a
17 judgment of restitution. The court indicated in *Coles v. State, 290 MD 296 (1981)* that
18 a judge is not limited to the statute regarding the award of restitution as a condition
19 of probation, however, without other offenses being listed in the restitution statute
20 there would not be uniformity to enforce restitution which is ordered. The Committee
21 to Revise Article 27 believes that it is more appropriate that all restitution should be
22 subject to the provisions of Title 11, Subtitle 6 of the Criminal Procedure Article so
23 that all the statutory remedies attach. Further, pursuant to § 11-607(a) of the
24 Criminal Procedure Article, any restitution ordered is a condition of probation.

25 11-603.

26 (a) A court may enter a judgment of restitution that orders a defendant or
27 child respondent to make restitution in addition to any other penalty for the
28 commission of a crime or delinquent act, if:

29 (1) as a direct result of the crime or delinquent act, property of the victim
30 was stolen, damaged, destroyed, converted, or unlawfully obtained, or its value
31 substantially decreased;

32 (2) as a direct result of the crime or delinquent act, the victim suffered
33 OR IS REASONABLY LIKELY TO SUFFER FUTURE:

34 (i) [actual] medical, dental, hospital, counseling, funeral, or burial
35 expenses;

36 (ii) [any other] direct out-of-pocket loss; [or]

- 1 (iii) loss of earnings; OR
- 2 (IV) EXPENSES INCURRED WITH REHABILITATION;
- 3 (3) the victim incurred medical expenses that were paid by the
4 Department of Health and Mental Hygiene or any other governmental unit;
- 5 (4) a governmental unit incurred expenses in removing, towing,
6 transporting, preserving, storing, selling, or destroying an abandoned vehicle as
7 defined in § 25-201 of the Transportation Article;
- 8 (5) the Criminal Injuries Compensation Board paid benefits to a victim;
9 or
- 10 (6) the Department of Health and Mental Hygiene or other
11 governmental unit paid expenses incurred under Subtitle 2, Part II of this title.

12 (b) A victim is presumed to have a right to restitution under subsection (a) of
13 this section if:

- 14 (1) the victim or the State requests restitution; and
- 15 (2) the court is presented with competent evidence of any item listed in
16 subsection (a) of this section.

17 (c) (1) A judgment of restitution does not preclude the property owner or the
18 victim who suffered personal physical or mental injury, out-of-pocket loss of
19 earnings, or support from bringing a civil action to recover damages from the
20 restitution obligor.

21 (2) A civil verdict shall be reduced by the amount paid under the
22 criminal judgment of restitution.

23 [(d) In making a disposition on a finding that a child at least 13 years old has
24 committed an act of graffiti under § 6-301(d) of the Criminal Law Article, the court
25 shall order the child to perform community service or pay restitution or both.]

26 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The proposed
27 change to subsection (a)(2) of this section will reverse *In re John M., 129 Md. App. 165*
28 *(1999)*. Subsection (d) of this section is transferred without changes to § 6-301(d)(3) of
29 the Criminal Law Article.

30 11-603.1.

31 (A) IN A RESTITUTION HEARING HELD UNDER § 11-603 OF THIS SUBTITLE, A
32 WRITTEN STATEMENT OR BILL IS LEGALLY SUFFICIENT EVIDENCE OF THE AMOUNT,
33 FAIRNESS, AND REASONABLENESS OF THE CHARGES AND THE NECESSITY OF THE
34 SERVICES OR MATERIALS PROVIDED.

35 (B) IF THE BILL HAS BEEN PAID, A PERSON WHO CHALLENGES THE FAIRNESS
36 AND REASONABLENESS OF THE AMOUNT ON THE STATEMENT OR BILL OR THE

1 NECESSITY FOR THE SERVICES OR MATERIALS HAS THE BURDEN OF PROVING THAT
2 THE AMOUNT IS NOT FAIR AND REASONABLE OR THE SERVICES AND MATERIALS ARE
3 NOT NECESSARY.

4 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): This section is
5 transferred with changes from former § 11-615 of the Criminal Procedure Article.
6 Although there are differences in the weight accorded to the evidence in this section
7 and in §§ 10-104 and 10-105 of the Courts Article, the changes are designed to
8 provide for the authenticity and admissibility of writings and records in the same
9 manner as provided under § 10-104 of the Courts Article. The Committee deleted the
10 laundry list of types of expenses from former § 11-615 to expand coverage to all areas
11 of restitution.

12 11-604.

13 (a) [Notwithstanding] SUBJECT TO SUBSECTION (B) OF THIS SECTION AND
14 NOTWITHSTANDING any other law, if a child is the defendant or child respondent, the
15 court may order the child, the child's parent, or both to pay restitution [to a victim].

16 (b) A judgment of restitution for \$10,000 issued under Part I of this subtitle is
17 the absolute limit for [all] EACH CHILD'S acts arising out of a single incident [and is
18 the absolute limit against one child, the child's parent, or both].

19 (c) (1) A HEARING UNDER THIS SECTION MAY BE HELD AS PART OF THE
20 SENTENCING OR DISPOSITION HEARING.

21 (2) A court may not enter a judgment of restitution against a parent
22 under Part I of this subtitle unless the parent has been afforded a reasonable
23 opportunity to be heard and to present evidence.

24 [(2) A hearing under this subsection may be held as part of the sentencing
25 or disposition hearing.]

26 11-606.

27 (a) The court may order that restitution be paid to:

28 (1) the victim;

29 (2) the Department of Health and Mental Hygiene, the Criminal Injuries
30 Compensation Board, or any other governmental unit; or

31 (3) a third-party payor, [including] INCLUDING:

32 (I) an insurer[,]; or

33 (II) any other person that [has] HAS, UNDER PART I OF THIS
34 SUBTITLE:

35 1. compensated the victim for a property or pecuniary loss
36 [under Part I of this subtitle]; OR

1 restitution obligor has been ordered to pay restitution has all the rights and
2 obligations of a money judgment creditor under the Maryland Rules, including the
3 obligation under Maryland Rule 2-626 or 3-626 on receiving all amounts due under
4 the judgment to file a statement that the judgment has been satisfied.

5 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The condition
6 to record and index in the civil judgment index is not required in § 11-613(d) of the
7 Criminal Procedure Article and adding it here causes confusion.

8 11-609.

9 (a) A judgment of restitution that a circuit court orders under Part I of this
10 subtitle shall be recorded and indexed in the civil judgment index by the clerk of the
11 circuit court as a money judgment as the Maryland Rules provide.

12 (b) A judgment of restitution that is recorded and indexed in the civil
13 judgment index as a money judgment under subsection (a) of this section:

14 (1) in the county of entry of the judgment, is a lien from the date of entry
15 in the amount of the judgment on the restitution obligor's interest in land located in
16 the county of the entry of the judgment; but

17 (2) in a county other than the county of entry of the judgment, is a lien
18 from the date of recording in the amount of the judgment on the restitution obligor's
19 interest in land located in that county.

20 11-610.

21 (a) A judgment of restitution that the District Court orders under Part I of this
22 subtitle [may not] SHALL be recorded and indexed BY THE CLERK OF THE DISTRICT
23 COURT as a money judgment in the District Court [until the person or governmental
24 unit to whom the restitution obligor has been ordered to pay restitution files with the
25 Clerk of the District Court a written request for the recording and indexing].

26 (b) [If] ONCE a judgment of restitution is recorded and indexed as a money
27 judgment under subsection (a) of this section:

28 (1) the Clerk of the District Court shall immediately forward a notice of
29 lien of judgment to the circuit court for the county of entry of judgment; and

30 (2) [on the receipt of the written statement from the person or
31 governmental unit to whom a restitution obligor has been ordered to pay restitution,]
32 the Clerk of the District Court shall forward a notice of lien of judgment to the circuit
33 court of any other county as the Maryland Rules provide.

34 (c) Whenever the Clerk of the District Court forwards a notice of lien under
35 subsection (b) of this section to a circuit court, the clerk of the circuit court shall
36 record and index the notice of lien as the Maryland Rules provide.

1 (d) (1) A judgment of restitution that is issued by the District Court and is
2 recorded and indexed as a money judgment [as allowed by] UNDER subsection (a) of
3 this section is a lien in the amount of the judgment on the restitution obligor's
4 interest in land in a county.

5 (2) The lien is in effect from the date that a notice of lien is recorded and
6 indexed in the circuit court of the county.

7 [(e) (1) If the District Court enters a judgment of restitution under Part I of
8 this subtitle, the Clerk of the District Court shall send a written notice to the person
9 or governmental unit in whose favor the judgment of restitution is entered.

10 (2) The notice shall say in substance:

11 "The District Court has awarded you a judgment of restitution.

12 "The judgment of restitution is not a money judgment until it is recorded and
13 indexed in the civil judgment records of the District Court.

14 "On your written request and without charge, the Clerk of the District Court
15 will record and index the judgment of restitution as a money judgment. Then, without
16 charge, the Clerk of the District Court will also send a notice of lien to the circuit
17 court for the county, and, without charge, the notice of lien will be recorded and
18 indexed in the circuit court for the county.

19 "On your further written request, the Clerk of the District Court will send a
20 notice of lien to the circuit court for any other county that you specify."]

21 11-611.

22 A court may not assess costs on a person or governmental unit to whom a
23 restitution obligor has been ordered to pay restitution:

24 (1) for recording and indexing an order of restitution as a money
25 judgment in the court in which the judgment of restitution was issued; [or]

26 (2) for recording and indexing a notice of lien that the District Court
27 forwards to a circuit court; OR

28 (3) FOR FILING A NOTICE OF SATISFACTION.

29 11-612.

30 (a) (1) THIS SUBSECTION APPLIES TO ORDERS OF PROBATION ENTERED ON
31 OR BEFORE SEPTEMBER 30, 2003 AND TERMINATED ON OR AFTER OCTOBER 1, 2003.

32 (2) If a District Court decides to [terminate a judgment of restitution
33 that has not been recorded and indexed as a money judgment or to] terminate a
34 probation before a judgment of restitution has been recorded and indexed as a money
35 judgment, the court shall direct the clerk of the court:

1 (i) to record and index the judgment of restitution as a money
2 judgment and forward a notice of lien to the circuit court of the county of entry of
3 judgment before terminating the judgment of restitution and probation; and

4 (ii) to forward a written notice to the person or governmental unit
5 to whom the restitution obligor was ordered to pay restitution.

6 [(2)] (3) The written notice shall state that:

7 (i) the judgment of restitution has been recorded and indexed as a
8 money judgment in the District Court; and

9 (ii) a notice of lien has been forwarded to the circuit court of the
10 county of entry of judgment.

11 (b) Subject to the Maryland Rules, unless a restitution obligor pays complete
12 restitution, termination of [a judgment of restitution or] probation by a court does
13 not affect a money judgment that has been recorded and indexed under Part I of this
14 subtitle.

15 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The Committee
16 deleted the language in this section relating to "terminating a judgement of
17 restitution" as it is superfluous language that has no real authority.

18 11-613.

19 (a) Notwithstanding any other provision of Part I of this subtitle and except as
20 provided in subsection (b) of this section, a victim or other person or governmental
21 unit may not execute on a judgment recorded and indexed under Part I of this subtitle
22 if the restitution obligor:

23 (1) files a motion under the Maryland Rules to stay execution of
24 [sentence or] the judgment of restitution [that] AND THE MOTION has not been
25 [determined] DECIDED by the court; and

26 (2) challenges the conviction, sentence, or judgment of restitution by:

27 (i) filing an appeal in a State court or in federal court;

28 (ii) applying for leave to appeal following a plea of guilty in a circuit
29 court;

30 (iii) filing a motion for exercise of revisory power by the sentencing
31 court under the Maryland Rules;

32 (iv) filing an application for review of criminal sentence under Title
33 8 of this article; or

34 (v) filing a notice for in banc review under the Maryland Rules.

1 (b) If a restitution obligor [files an action described in] HAS COMPLIED WITH
2 THE REQUIREMENTS OF subsection (a) of this section AND THE COURT HAS NOT YET
3 RULED ON THE REQUEST FOR A STAY, a person or governmental unit may not execute
4 on a judgment recorded and indexed under Part I of this subtitle until a court issues
5 a final judgment that upholds the conviction, sentence, or judgment of restitution.

6 (c) A person or governmental unit may not execute on a judgment recorded
7 and indexed under Part I of this subtitle until the time has expired in which a
8 restitution obligor may file any of the actions listed under subsection (a)(2)(i) through
9 (v) of this section.

10 (d) The judgment of restitution may be enforced in the same way that a
11 monetary judgment is enforced.

12 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The change to
13 subsection (b) of this section clarifies that subsection (b) requires that the restitution
14 obligor comply with the provisions of subsection (a). The court has the authority to
15 stay under Maryland Rule 4-348(d) or Rule 8-422.

16 11-614.

17 (a) If practicable, the State's Attorney should:

18 (1) notify an eligible victim of the victim's right to request restitution;
19 and

20 (2) help the victim to prepare the request and advise the victim as to the
21 steps for collecting restitution that is awarded.

22 (b) (1) If a victim cannot be located, all money collected from a judgment of
23 restitution shall be treated as abandoned property under Title 17 of the Commercial
24 Law Article.

25 (2) NOTWITHSTANDING § 17-317(A) OF THE COMMERCIAL LAW ARTICLE,
26 ANY MONEY NOT CLAIMED FROM A JUDGMENT OF RESTITUTION AFTER NOTICE
27 UNDER TITLE 17 OF THE COMMERCIAL LAW ARTICLE SHALL BE REMITTED TO THE
28 COMPTROLLER FOR DEPOSIT INTO THE STATE VICTIMS OF CRIME FUND.

29 [11-615.

30 (a) In a restitution hearing held under § 11-603 of this subtitle, a written
31 statement or bill for medical, dental, hospital, counseling, funeral, or burial expenses
32 is legally sufficient evidence that a charge shown on the written statement or bill is a
33 fair and reasonable charge for the services or materials provided.

34 (b) A person who challenges the fairness and reasonableness of the amount on
35 the statement or bill has the burden of proving that the amount is not fair and
36 reasonable.]

1 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): This section
2 has been transferred with change to new § 11-603.1 of the Criminal Procedure
3 Article.

4 11-616.

5 (a) The Division or the Department of Juvenile Justice:

6 (1) in addition to other actions authorized under Part I of this subtitle,
7 may refer an overdue restitution account for collection to the Central Collection Unit;
8 and

9 (2) if probation or other supervision is terminated and restitution is still
10 owed, shall refer the overdue restitution account for collection to the Central
11 Collection Unit.

12 (b) Subject to subsection (c) of this section, the Central Collection Unit may:

13 (1) collect overdue restitution in accordance with Title 3, Subtitle 3 of the
14 State Finance and Procurement Article; and

15 (2) certify a restitution obligor who is in arrears on restitution payments
16 exceeding \$30 under the judgment of restitution to:

17 (i) the Comptroller for income tax refund interception in
18 accordance with Title 13, Subtitle 9, Part III of the Tax - General Article; and

19 (ii) the State Lottery Agency for State lottery prize interception in
20 accordance with § 11-618 of this subtitle.

21 (c) (1) [The] UNLESS THE COURT ORDERS OTHERWISE, THE Central
22 Collection Unit may not compromise and settle a judgment of restitution unless the
23 Division or the Department of Juvenile Justice obtains the consent of the victim.

24 (2) The Division or the Department of Juvenile Justice shall contact the
25 victim to determine whether the victim consents to compromise and settle a judgment
26 of restitution.

27 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The change in
28 subsection (c)(1) of this section was made to authorize the Central Collection Unit to
29 settle a case in which the victim cannot be located.

30 (d) If complete restitution and interest have been paid or a judgment of
31 restitution has been compromised and settled as provided in subsection (c) of this
32 section, the Division, the Department of Juvenile Justice, or the Central Collection
33 Unit immediately shall notify:

34 (1) the court that issued the judgment by filing the statement as
35 provided under [§ 11-608(3)] § 11-608(C) of this subtitle that the judgment has been
36 satisfied; and

1 (2) the last known employer of a restitution obligor to terminate an
2 earnings withholding order issued under § 11-617 of this subtitle.

3 (e) (1) Restitution is overdue if the restitution or a restitution payment is
4 not paid:

5 (i) by the date that the court orders; or

6 (ii) if no date is ordered, by the later of:

7 1. the date the Division or the Department of Juvenile
8 Justice directs the restitution obligor to pay restitution or make a restitution
9 payment; or

10 2. 30 days after the court enters a judgment of restitution.

11 (2) If restitution is overdue, the amount of the arrearage is the amount of
12 restitution ordered and any interest allowed by law, minus any amount previously
13 paid or received under the judgment of restitution.

14 11-617.

15 (a) (1) If a court issues a judgment of restitution under § 11-603 of this
16 subtitle, the court may enter an immediate and continuing earnings withholding
17 order in an amount sufficient to pay the restitution.

18 (2) The court may enter the order:

19 (i) at the sentencing or disposition hearing;

20 (ii) when the defendant or child respondent is placed on work
21 release or probation; or

22 (iii) when the payment of restitution is overdue.

23 (b) Subject to federal law, the order of priority of execution of an earnings
24 withholding order is:

25 (1) first, an earnings withholding order issued under § 10-128 of the
26 Family Law Article;

27 (2) second, an earnings withholding order issued under this section; and

28 (3) lastly, any other lien or legal process.

29 (c) (1) This subsection applies whenever a court orders an earnings
30 withholding order under this section.

31 (2) On entry of the order, the clerk of the court immediately shall:

1 (i) serve a copy on any current or subsequent employer of the
2 restitution obligor, if known; and

3 (ii) mail a copy to the restitution obligor at the last known address
4 or place of incarceration or commitment of the restitution obligor.

5 (3) A restitution obligor immediately shall notify the court [and], THE
6 CENTRAL COLLECTION UNIT, AND the Division or Department of Juvenile Justice of:

7 (i) any objection to an earnings withholding order;

8 (ii) the current home address of the restitution obligor;

9 (iii) the name of the employer;

10 (iv) the work address of the restitution obligor; and

11 (v) any change of employer, home address, or work address of the
12 restitution obligor.

13 (4) An employer who is served with an earnings withholding order under
14 this section immediately shall notify the court [and], THE CENTRAL COLLECTION
15 UNIT, AND the Division or Department of Juvenile Justice of:

16 (i) any justification for the employer's inability to comply with the
17 earnings withholding order;

18 (ii) the home address of the restitution obligor on the termination of
19 employment;

20 (iii) information regarding the new place of employment of the
21 restitution obligor; or

22 (iv) the employer's reemployment of the restitution obligor.

23 (5) Unless the information has been provided to the court, the Division,
24 Department of Juvenile Justice, or the Central Collection Unit shall notify the court
25 of a current or subsequent home address of the restitution obligor and the employer
26 and work address of the restitution obligor.

27 (d) (1) Except as otherwise provided in this section, an earnings withholding
28 order issued under this section shall:

29 (i) comply with the requirements of §§ 10-128(a) and 10-129(a)
30 through (c) of the Family Law Article; and

31 (ii) set forth the obligations and responsibilities of an employer and
32 a restitution obligor under an earnings withholding order and the consequences of
33 violating this section.

1 (2) Each amount withheld in an earnings withholding order under this
2 section is payable to the Division or Department of Juvenile Justice.

3 (3) An earnings withholding order is binding on each present and future
4 employer of the restitution obligor who is served with the order.

5 (e) (1) Subject to paragraphs (2) and (3) of this subsection, the payment
6 amount under an earnings withholding order under this section is 20% of the
7 earnings of a restitution obligor less other deductions required by law to be paid out of
8 any funds earned under a work release plan.

9 (2) If the restitution obligation of the restitution obligor is overdue, the
10 court may impose a payment exceeding the amount allowed in paragraph (1) of this
11 subsection.

12 (3) (i) The amount of an earnings withholding order issued under this
13 section may not exceed the limits of the federal Consumer Credit Protection Act.

14 (ii) The court shall reduce an amount of an earnings withholding
15 order that exceeds the limits of the federal Consumer Credit Protection Act to the
16 maximum allowed under the Act.

17 (f) (1) This subsection applies to a restitution obligor and the employer of a
18 restitution obligor.

19 (2) A person who violates this section is subject to a fine not exceeding
20 \$250.

21 (3) A fine collected under this section shall be distributed in the same
22 way as costs are distributed under § 7-409 of the Courts Article.

23 (4) In addition to a fine imposed under this subsection, an employer is
24 liable for damages for the failure to deduct the earnings of a restitution obligor or
25 failure to make a timely payment as required in the earnings withholding order.

26 SECTION 2. AND BE IT FURTHER ENACTED, That the Committee Notes
27 contained in this Act are not law.

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2003.