

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

House Bill 233

(Delegate Simmons)

Judiciary

Judicial Proceedings

Criminal Procedure - Extension of Probation - Payment of Restitution

This bill authorizes a court to extend a convicted person's probation for an additional three years in the District Court or five years in a circuit court for the purpose of making restitution. The bill allows such a probation to be supervised or unsupervised.

Fiscal Summary

State Effect: While it is unknown to what extent this bill may increase the number of persons whose probation is extended for purposes of making restitution, any such increase could be handled with the existing budgeted resources of the courts and the Division of Parole and Probation.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: "Judgment of restitution" means a direct order for payment of restitution or an order for payment of restitution that is a condition of probation in an order of probation.

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

- as a direct result of the crime or delinquent act, property of the victim was stolen, damaged, destroyed, converted, or unlawfully obtained, or its value substantially decreased;
- as a direct result of the crime or delinquent act, the victim suffered actual medical, dental, hospital, counseling, funeral, or burial expenses; any other direct out-of-pocket loss; or loss of earnings;
- the victim incurred medical expenses that were paid by the Department of Health and Mental Hygiene or any other governmental unit; or
- a governmental unit incurred expenses in removing, towing, transporting, preserving, storing, selling, or destroying an abandoned vehicle; the Criminal Injuries Compensation Board paid benefits to a victim; or the Department of Health and Mental Hygiene or other governmental unit paid certain other expenses.

A victim is presumed to have a right to such restitution if the victim or the State requests restitution, and the court is presented with competent evidence of any item for which restitution is requested. A judgment of restitution does not preclude the property owner or the victim who suffered personal physical or mental injury, out-of-pocket loss of earnings, or support from bringing a civil action to recover damages from the restitution obligor. A civil verdict is required to be reduced by the amount paid under the criminal judgment of restitution.

A circuit court or the District Court may:

- impose a sentence for a specified time and provide that a lesser time be served in confinement;
- suspend the remainder of the sentence; and
- order probation for a time longer than the sentence but not longer than five years if the probation is ordered by a circuit court or three years if the probation is ordered by the District Court.

The court may extend the probation beyond the time allowed if the defendant consents in writing and the extension is only for making restitution.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State's Attorneys' Association, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - February 7, 2003
lc/cer Revised - House Third Reader - March 18, 2003

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