
By: **Delegate Cluster**

Introduced and read first time: February 24, 2005

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Juvenile Services - Judgments of Restitution - Increased**
3 **Collection Program**

4 FOR the purpose of requiring the Secretary of Juvenile Services to implement a
5 program to increase the amount of payments collected by and property returned
6 to the Department of Juvenile Services in satisfaction of certain judgments of
7 restitution entered by the courts; establishing goals for the program to meet
8 within certain time periods; requiring the Secretary to submit certain
9 performance reports at certain intervals; and generally relating to judgments of
10 restitution and the Department of Juvenile Services.

11 BY adding to
12 Article 83C - Juvenile Services
13 Section 2-128.1
14 Annotated Code of Maryland
15 (2003 Replacement Volume and 2004 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article - Courts and Judicial Proceedings
18 Section 3-8A-28
19 Annotated Code of Maryland
20 (2002 Replacement Volume and 2004 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article - Criminal Procedure
23 Section 11-603, 11-607, and 11-616
24 Annotated Code of Maryland
25 (2001 Volume and 2004 Supplement)

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

1

Article 83C - Juvenile Services

2 2-128.1.

3 (A) THE SECRETARY SHALL IMPLEMENT A PROGRAM TO INCREASE THE
4 AMOUNT OF PAYMENTS COLLECTED BY AND PROPERTY RETURNED TO THE
5 DEPARTMENT IN SATISFACTION OF JUDGMENTS OF RESTITUTION ENTERED BY THE
6 COURTS AS PROVIDED UNDER § 11-603 OF THE CRIMINAL PROCEDURE ARTICLE.

7 (B) FOR FISCAL YEAR 2006, THE GOAL OF THE PROGRAM SHALL BE TO
8 INCREASE COLLECTIONS BY AT LEAST 20% OVER COLLECTIONS RECEIVED IN FISCAL
9 YEAR 2005.

10 (C) FOR THE PERIOD OF FISCAL YEARS 2007 THROUGH 2010, THE GOAL OF THE
11 PROGRAM SHALL BE TO INCREASE TOTAL COLLECTIONS FOR EACH YEAR SO THAT
12 THE COLLECTIONS IN FISCAL YEAR 2010 ARE AT LEAST AN ADDITIONAL 10% OVER
13 COLLECTIONS RECEIVED IN FISCAL YEAR 2006.

14 (D) THE SECRETARY SHALL SUBMIT AN ANNUAL PERFORMANCE REPORT ON
15 THE PROGRAM, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT
16 ARTICLE, TO THE SENATE JUDICIAL PROCEEDINGS COMMITTEE AND THE HOUSE
17 JUDICIARY COMMITTEE BY DECEMBER 1 OF EACH YEAR THAT SETS FORTH THE
18 RESULTS OF THE PROGRAM FOR THE PRIOR FISCAL YEAR.

19

Article - Courts and Judicial Proceedings

20 3-8A-28.

21 The court may enter a judgment of restitution against the parent of a child, the
22 child, or both as provided under Title 11, Subtitle 6 of the Criminal Procedure Article.

23

Article - Criminal Procedure

24 11-603.

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

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

31 (2) as a direct result of the crime or delinquent act, the victim suffered:

32 (i) actual medical, dental, hospital, counseling, funeral, or burial
33 expenses;

34 (ii) any other direct out-of-pocket loss; or

- 1 (iii) loss of earnings;
- 2 (3) the victim incurred medical expenses that were paid by the
3 Department of Health and Mental Hygiene or any other governmental unit;
- 4 (4) a governmental unit incurred expenses in removing, towing,
5 transporting, preserving, storing, selling, or destroying an abandoned vehicle as
6 defined in § 25-201 of the Transportation Article;
- 7 (5) the Criminal Injuries Compensation Board paid benefits to a victim;
8 or
- 9 (6) the Department of Health and Mental Hygiene or other
10 governmental unit paid expenses incurred under Subtitle 1, Part II of this title.
- 11 (b) A victim is presumed to have a right to restitution under subsection (a) of
12 this section if:
- 13 (1) the victim or the State requests restitution; and
- 14 (2) the court is presented with competent evidence of any item listed in
15 subsection (a) of this section.
- 16 (c) (1) A judgment of restitution does not preclude the property owner or the
17 victim who suffered personal physical or mental injury, out-of-pocket loss of
18 earnings, or support from bringing a civil action to recover damages from the
19 restitution obligor.
- 20 (2) A civil verdict shall be reduced by the amount paid under the
21 criminal judgment of restitution.
- 22 (d) In making a disposition on a finding that a child at least 13 years old has
23 committed an act of graffiti under § 6-301(d) of the Criminal Law Article, the court
24 shall order the child to perform community service or pay restitution or both.
- 25 11-607.
- 26 (a) (1) When a judgment of restitution has been entered under § 11-603 of
27 this subtitle, compliance with the judgment of restitution:
- 28 (i) may be a requirement in the judgment of conviction or
29 disposition in a juvenile delinquency proceeding;
- 30 (ii) if work release is ordered, shall be a condition of work release;
- 31 (iii) if probation is ordered, shall be a condition of probation:
- 32 1. in addition to a sentence or disposition; or
- 33 2. instead of a sentence if the probation is ordered before
34 judgment under § 6-220 of this article.

1 (2) Subject to federal law, the Department or the Department of Juvenile
2 Services shall obtain the Social Security number of the restitution obligor to facilitate
3 the collection of restitution.

4 (b) (1) The restitution obligor shall make restitution to the Division or the
5 Department of Juvenile Services under the terms and conditions of the judgment of
6 restitution.

7 (2) The Division or the Department of Juvenile Services:

8 (i) shall keep records of payments or return of property in
9 satisfaction of the judgment of restitution;

10 (ii) shall forward property or payments in accordance with the
11 judgment of restitution and Part I of this subtitle to:

12 1. the victim;

13 2. the Department of Health and Mental Hygiene or other
14 governmental unit; or

15 3. the third-party payor; and

16 (iii) may require the restitution obligor to pay additional fees not
17 exceeding 2% of the amount of the judgment of restitution to pay for the
18 administrative costs of collecting payments or property.

19 (c) (1) Whenever a restitution obligor fails to make restitution as ordered,
20 the Division or the Department of Juvenile Services shall notify the court.

21 (2) The court may hold a hearing to determine whether the restitution
22 obligor is in contempt of court or has violated the terms of the probation.

23 (3) If the court finds that the restitution obligor intentionally became
24 impoverished to avoid payment of the restitution, the court may find the restitution
25 obligor in contempt of court or in violation of probation.

26 11-616.

27 (a) The Division or the Department of Juvenile Services:

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

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

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

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

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

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

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

9 (c) (1) The Central Collection Unit may not compromise and settle a
10 judgment of restitution unless the Division or the Department of Juvenile Services
11 obtains the consent of the victim.

12 (2) The Division or the Department of Juvenile Services shall contact the
13 victim to determine whether the victim consents to compromise and settle a judgment
14 of restitution.

15 (d) If complete restitution and interest have been paid or a judgment of
16 restitution has been compromised and settled as provided in subsection (c) of this
17 section, the Division, the Department of Juvenile Services, or the Central Collection
18 Unit immediately shall notify:

19 (1) the court that issued the judgment by filing the statement as
20 provided under § 11-608(3) of this subtitle that the judgment has been satisfied; and

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

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

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

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

27 1. the date the Division or the Department of Juvenile
28 Services directs the restitution obligor to pay restitution or make a restitution
29 payment; or

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

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

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 2005.