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

Introduced and read first time: February 3, 2005

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Restitution - Judgments and Recipients**

3 FOR the purpose of making certain provisions authorizing restitution subject to  
4 certain provisions for judgments of restitution; expanding the persons and  
5 governmental units to whom restitution may be ordered and disbursed;  
6 expanding the purposes for which restitution may be ordered under certain  
7 circumstances; establishing that certain provisions relating to restitution do not  
8 limit the authority of a court to order restitution for certain purposes; making  
9 certain stylistic changes; and generally relating to restitution.

10 BY repealing and reenacting, with amendments,  
11 Article 10 - Legal Officials  
12 Section 45M  
13 Annotated Code of Maryland  
14 (2001 Replacement Volume and 2004 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article - Correctional Services  
17 Section 8-710(c)  
18 Annotated Code of Maryland  
19 (1999 Volume and 2004 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article - Criminal Law  
22 Section 4-503(c), 6-301(d), 7-316(c), 8-107, 8-301(f), 9-504(e), and 9-505(c)  
23 Annotated Code of Maryland  
24 (2002 Volume and 2004 Supplement)

25 BY repealing and reenacting, with amendments,  
26 Article - Criminal Procedure  
27 Section 11-402(d), 11-604(a), 11-606, 11-607(b), and 11-1001(d)  
28 Annotated Code of Maryland

1 (2001 Volume and 2004 Supplement)

2 BY repealing and reenacting, without amendments,

3 Article - Criminal Procedure

4 Section 11-608 and 11-817

5 Annotated Code of Maryland

6 (2001 Volume and 2004 Supplement)

7 BY adding to

8 Article - Criminal Procedure

9 Section 11-619

10 Annotated Code of Maryland

11 (2001 Volume and 2004 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article 10 - Legal Officials**

15 45M.

16 (a) [Any person who fraudulently obtains, attempts to obtain, or aids another  
17 person in fraudulently obtaining or attempting to obtain legal assistance to which he  
18 is not entitled is guilty of a misdemeanor. For purposes of] IN this section [fraud shall  
19 include], "FRAUDULENT" INCLUDES:

20 (1) Wilfully making a false statement or representation;

21 (2) Wilfully failing to disclose a material change in financial condition; or

22 (3) Impersonating another person.

23 (B) A PERSON MAY NOT FRAUDULENTLY OBTAIN, ATTEMPT TO OBTAIN, OR  
24 AID ANOTHER PERSON IN FRAUDULENTLY OBTAINING OR ATTEMPTING TO OBTAIN  
25 LEGAL ASSISTANCE TO WHICH THE PERSON IS NOT ENTITLED.

26 [(b)] (C) [Upon conviction, after notice and the opportunity to be heard as to  
27 the amount of payment and how the payment is to be made, the person shall make  
28 full restitution of the value of the legal assistance unlawfully received, and shall be  
29 fined not more than \$1,000 or imprisoned for not more than three years, or both] A  
30 PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND, ON  
31 CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT  
32 EXCEEDING 3 YEARS OR BOTH.

33 (D) (1) IN ACCORDANCE WITH TITLE 11, SUBTITLE 6 OF THE CRIMINAL  
34 PROCEDURE ARTICLE, A COURT SHALL ENTER A JUDGMENT FOR RESTITUTION FOR  
35 THE VALUE OF THE LEGAL ASSISTANCE RECEIVED IN VIOLATION OF THIS SECTION.

1 (2) RESTITUTION ORDERED SHALL BE PAYABLE TO THE CORPORATION  
2 OR GRANTEE WHO PROVIDED THE LEGAL ASSISTANCE.

3 **Article - Correctional Services**

4 8-710.

5 (c) This subtitle does not limit the authority of a court to direct a juvenile or a  
6 defendant, under the supervision of the Division of Parole and Probation, the  
7 Department of Juvenile Services, or any other unit or individual as directed by the  
8 court, to make restitution [to the victim of a particular crime] or to perform certain  
9 services for the victim as an alternative means of restitution:

- 10 (1) as a condition of probation;
- 11 (2) as a condition of suspended sentence; or
- 12 (3) instead of any fines and court costs imposed.

13 **Article - Criminal Law**

14 4-503.

15 (c) [(1)] In addition to any penalty provided in subsection (b) of this section, a  
16 [person convicted or found to have committed a delinquent act under this section may  
17 be ordered by the court to pay] COURT MAY INCLUDE IN A JUDGMENT OF  
18 RESTITUTION UNDER TITLE 11, SUBTITLE 6 OF THE CRIMINAL PROCEDURE ARTICLE  
19 A PROVISION FOR restitution to:

20 [(i)] (1) the State, county, municipal corporation, bicounty agency  
21 MULTICOUNTY AGENCY, COUNTY BOARD OF EDUCATION, PUBLIC AUTHORITY, or  
22 special taxing district for actual costs reasonably incurred due to [the placement,  
23 delivery, or detonation of a destructive device] A VIOLATION OF THIS SECTION,  
24 including the search for, removal of, and damages caused by a destructive device; and

25 [(ii)] (2) the owner or tenant of a property for the actual value of  
26 any goods, services, or income lost as a result of the evacuation of the property or  
27 damage sustained due to [the placement, delivery, or detonation of a destructive  
28 device] A VIOLATION OF THIS SECTION.

29 [(2)] (i) If a person convicted or found to have committed a delinquent  
30 act under this section is a minor, the court may order the minor, the minor's parent,  
31 or both to pay the restitution described in paragraph (1) of this subsection.

32 (ii) Except as otherwise provided in this section, the provisions of  
33 Title 11, Subtitle 6 of the Criminal Procedure Article apply to an order of restitution  
34 under this paragraph.

35 (3) This subsection does not limit the right of a person to restitution  
36 under Title 11, Subtitle 6 of the Criminal Procedure Article.]

1 6-301.

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

5 (2) In addition to the penalties set forth in subsections (b) and (c) of this  
6 section, [the court shall order a person convicted of causing malicious destruction by  
7 an act of graffiti to pay] A COURT SHALL INCLUDE IN A JUDGMENT FOR  
8 RESTITUTION UNDER TITLE 11, SUBTITLE 6 OF THE CRIMINAL PROCEDURE ARTICLE  
9 A PROVISION FOR restitution or AN ORDER TO perform community service or both.

10 [(3) Title 11, Subtitle 6 of the Criminal Procedure Article applies to an  
11 order of restitution under this subsection.]

12 7-316.

13 (c) In addition to any other sentence authorized by law, the court may require  
14 a person convicted of violating this part to make restitution in accordance with TITLE  
15 11, SUBTITLE 6 OF the Criminal Procedure Article.

16 8-107.

17 In addition to the penalties provided in § 8-106 of this subtitle, if a person  
18 obtains property or services by issuing or passing a check in violation of § 8-103 of  
19 this subtitle, on conviction, the court:

20 (1) if the property has been recovered or is in the defendant's possession  
21 or control, may order restoration of the property to any person with a property  
22 interest in it;

23 (2) to the extent that the property is not restored or compensation has  
24 not been provided for the services, may [order] INCLUDE IN A JUDGMENT FOR  
25 RESTITUTION UNDER TITLE 11, SUBTITLE 6 OF THE CRIMINAL PROCEDURE ARTICLE  
26 PROVISIONS FOR restitution of the value of the property or services obtained to be  
27 paid to:

28 (i) any person having a property interest in the property; or

29 (ii) the person who provided the services; and

30 (3) may order the defendant to pay a collection fee of up to \$35, for each  
31 check, to:

32 (i) any person with a property interest in the property; or

33 (ii) the person who provided the services.

1 8-301.

2 (f) [In addition to] A COURT MAY INCLUDE IN A JUDGMENT FOR restitution  
3 under Title 11, Subtitle 6 of the Criminal Procedure Article[, a court may order a] A  
4 PROVISION REQUIRING THE person who pleads guilty or nolo contendere or who is  
5 found guilty under this section to make restitution to the victim for reasonable costs,  
6 including reasonable attorney's fees, incurred AS A RESULT OF A VIOLATION OF THIS  
7 SECTION:

8 (1) for clearing the victim's credit history or credit rating; and

9 (2) in connection with a civil or administrative proceeding to satisfy a  
10 debt, lien, judgment, or other obligation of the victim that arose because of the  
11 violation.

12 9-504.

13 (e) [(1)] In addition to the penalty provided in subsection (c) of this section, a  
14 court may [order a person convicted or found to have committed a delinquent act  
15 under this section to pay] INCLUDE IN A JUDGMENT FOR RESTITUTION UNDER TITLE  
16 11, SUBTITLE 6 OF THE CRIMINAL PROCEDURE ARTICLE A PROVISION FOR restitution  
17 to:

18 [(i)] (1) the State, county, municipal corporation, bicounty unit,  
19 MULTICOUNTY UNIT, COUNTY BOARD OF EDUCATION, PUBLIC AUTHORITY, or special  
20 taxing district for actual costs reasonably incurred in responding to a location and  
21 searching for a destructive device [caused by the false statement or rumor of a  
22 destructive device] AS A RESULT OF A VIOLATION OF THIS SECTION; and

23 [(ii)] (2) the owner or tenant of a property for the actual value of  
24 any goods, services, or income lost as a result of the evacuation of the property [in  
25 response to the false statement or rumor of a destructive device] AS A RESULT OF A  
26 VIOLATION OF THIS SECTION.

27 [(2)] This subsection may not be construed to limit the right of a person to  
28 restitution under Title 11, Subtitle 6 of the Criminal Procedure Article.

29 (3) (i) If the person convicted or found to have committed a delinquent  
30 act under this section is a minor, the court may order the minor, the minor's parent,  
31 or both to pay the restitution described in paragraph (1) of this subsection.

32 (ii) Except as otherwise provided in this section, the provisions of  
33 Title 11, Subtitle 6 of the Criminal Procedure Article apply to an order of restitution  
34 under this paragraph.]

35 9-505.

36 (c) (1) In addition to the penalty provided in subsection (b) of this section, a  
37 [person convicted or found to have committed a delinquent act under this section may  
38 be ordered by the court to pay] COURT MAY INCLUDE IN A JUDGMENT FOR

1 RESTITUTION UNDER TITLE 11, SUBTITLE 6 OF THE CRIMINAL PROCEDURE ARTICLE  
 2 AN ORDER FOR restitution to:

3 (i) the State, county, municipal corporation, bicounty unit,  
 4 MULTICOUNTY UNIT, COUNTY BOARD OF EDUCATION, PUBLIC AUTHORITY, or special  
 5 taxing district for actual costs reasonably incurred [in responding to a location and  
 6 searching for and removing of a device constructed to represent a destructive device]  
 7 AS A RESULT OF A VIOLATION OF THIS SECTION; and

8 (ii) the owner or tenant of a property for the actual value of any  
 9 goods, services, or income lost as a result of the evacuation of the property [in  
 10 response to a device that is constructed to represent a destructive device] AS A  
 11 RESULT OF A VIOLATION OF THIS SECTION.

12 (2) [This subsection may not be construed to limit the right of a person  
 13 to restitution under Title 11, Subtitle 6 of the Criminal Procedure Article.

14 (3) (i) If the person convicted or found to have committed a delinquent  
 15 act in violation of this section is a minor, the court may order the minor, the minor's  
 16 parent, or both to pay the restitution described in paragraph (1) of this subsection.

17 [(ii) Except as otherwise provided in this section, the provisions of  
 18 Title 11, Subtitle 6 of the Criminal Procedure Article apply to an order of restitution  
 19 under this paragraph.]

20

#### Article - Criminal Procedure

21 11-402.

22 (d) The court shall consider the victim impact statement in determining the  
 23 appropriate sentence or disposition and in entering a judgment of restitution [for the  
 24 victim] under § 11-603 of this title.

25 11-604.

26 (a) Notwithstanding any other law, if a child is the defendant or child  
 27 respondent, the court may order the child, the child's parent, or both to pay  
 28 restitution [to a victim].

29 11-606.

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

31 (1) the victim OR ANY OTHER PERSON OR GOVERNMENTAL UNIT FOR  
 32 WHOM RESTITUTION IS AUTHORIZED BY STATUTE OR AT COMMON LAW;

33 (2) the Department of Health and Mental Hygiene, the Criminal Injuries  
 34 Compensation Board, or any other governmental unit; [or]

1 (3) a third-party payor, including an insurer, or any other person that  
2 has compensated the victim for a property or pecuniary loss under Part I of this  
3 subtitle;

4 (4) A PERSON WHO PAYS, FOR A VICTIM, AN EXPENSE FOR WHICH  
5 RESTITUTION TO THE VICTIM IS AUTHORIZED UNDER § 11-603 OF THIS SUBTITLE; OR

6 (5) A PERSON WHO HAS PROVIDED TO OR FOR A VICTIM GOODS,  
7 PROPERTY, OR SERVICES FOR WHICH RESTITUTION IS AUTHORIZED UNDER § 11-603  
8 OF THIS SUBTITLE.

9 (b) (1) [Payment] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,  
10 PAYMENT of restitution to the victim has priority over[:

11 (i) payment of restitution to the Department of Health and Mental  
12 Hygiene or other] ANY OTHER PERSON OR governmental unit[; and

13 (ii) subject to paragraph (2) of this subsection, payment of  
14 restitution to a third-party payor].

15 (2) If the victim has been fully compensated for the victim's loss by a  
16 third-party payor, the court may issue a judgment of restitution that directs the  
17 restitution obligor to pay restitution to the third-party payor.

18 11-607.

19 (b) (1) The restitution obligor shall make restitution to the Division or the  
20 Department of Juvenile Services under the terms and conditions of the judgment of  
21 restitution.

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

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

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

27 1.] the victim[;

28 2. the Department of Health and Mental Hygiene or other  
29 governmental unit; or

30 3. the third-party payor] OR OTHER PERSON OR  
31 GOVERNMENTAL UNIT SPECIFIED IN THE JUDGMENT OF RESTITUTION; and

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

1 11-608.

2 If a judgment of restitution that requires the payment of money is recorded and  
3 indexed in the civil judgment index:

4 (1) the judgment of restitution is a money judgment in favor of the  
5 person, governmental unit, or third-party payor to whom the restitution obligor has  
6 been ordered to pay restitution;

7 (2) the judgment of restitution may be enforced by the person,  
8 governmental unit, or third-party payor to whom the restitution obligor has been  
9 ordered to pay restitution in the same manner as a money judgment in a civil action;  
10 and

11 (3) except as otherwise expressly provided under Part I of this subtitle, a  
12 person, governmental unit, or third-party payor to whom a restitution obligor has  
13 been ordered to pay restitution has all the rights and obligations of a money judgment  
14 creditor under the Maryland Rules, including the obligation under Maryland Rule  
15 2-626 or 3-626 on receiving all amounts due under the judgment to file a statement  
16 that the judgment has been satisfied.

17 11-619.

18 THIS TITLE DOES NOT LIMIT THE AUTHORITY OF A COURT TO DIRECT A  
19 JUVENILE OR A DEFENDANT, UNDER THE SUPERVISION OF THE DIVISION OF PAROLE  
20 AND PROBATION, THE DEPARTMENT OF JUVENILE SERVICES, OR ANY OTHER UNIT  
21 OR PERSON AS DIRECTED BY THE COURT, TO MAKE RESTITUTION OR TO PERFORM  
22 CERTAIN SERVICES FOR THE VICTIM AS AN ALTERNATIVE MEANS OF RESTITUTION:

23 (1) AS A CONDITION OF PROBATION;

24 (2) AS A CONDITION OF A SUSPENDED SENTENCE; OR

25 (3) INSTEAD OF ANY FINES AND COURT COSTS IMPOSED.

26 11-817.

27 Acceptance of an award made under this subtitle subrogates the State, to the  
28 extent of the award, to any right or right of action of the claimant or the victim to  
29 recover payments on account of losses resulting from the crime or delinquent act with  
30 respect to which the award is made, including the right to recover restitution ordered  
31 under § 11-603 of this title.

32 11-1001.

33 (d) "Restitution" means money or services that a defendant is ordered to pay  
34 or render to a victim [or], victim's representative, OR OTHER PERSON OR  
35 GOVERNMENTAL UNIT.



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