

SENATE BILL 818

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CF HB 780

By: **Senators Forehand, Colburn, Garagiola, Klausmeier, Lenett, Raskin, and Stone**

Introduced and read first time: February 10, 2010

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Identity Fraud – Restitution for Credit Restoration and Satisfaction of**
3 **Financial Obligations**

4 FOR the purpose of authorizing a court to enter a judgment of restitution if a certain
5 victim incurred certain reasonable costs, including reasonable attorney's fees,
6 for clearing the victim's credit history or credit rating or in connection with a
7 certain proceeding to satisfy a debt, lien, judgment, or other obligation of a
8 certain victim that arose due to a certain act; providing that a judgment of
9 restitution does not preclude a certain property owner or victim who suffered
10 certain losses of support or benefits, or who received a certain award or other
11 amount, from bringing a civil action to recover damages from a certain obligor;
12 and generally relating to criminal restitution.

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Law
15 Section 8–301(i)
16 Annotated Code of Maryland
17 (2002 Volume and 2009 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Criminal Procedure
20 Section 11–603
21 Annotated Code of Maryland
22 (2008 Replacement Volume and 2009 Supplement)

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

25 **Article – Criminal Law**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 8–301.

2 (i) [In addition to restitution under] **AS PROVIDED UNDER** Title 11,
3 Subtitle 6 of the Criminal Procedure Article, a court may order a person who pleads
4 guilty or nolo contendere or who is found guilty under this section to make restitution
5 to the victim for reasonable costs, including reasonable attorney’s fees, incurred:

6 (1) for clearing the victim’s credit history or credit rating; and

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

10 **Article – Criminal Procedure**

11 11–603.

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

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

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

20 (i) actual medical, dental, hospital, counseling, funeral, or
21 burial expenses or losses;

22 (ii) direct out-of-pocket loss;

23 (iii) loss of earnings; or

24 (iv) expenses incurred with rehabilitation;

25 (3) the victim incurred medical expenses that were paid by the
26 Department of Health and Mental Hygiene or any other governmental unit;

27 (4) a governmental unit incurred expenses in removing, towing,
28 transporting, preserving, storing, selling, or destroying an abandoned vehicle as
29 defined in § 25–201 of the Transportation Article;

30 (5) the Criminal Injuries Compensation Board paid benefits to a
31 victim; [or]

1 (6) the Department of Health and Mental Hygiene or other
2 governmental unit paid expenses incurred under Subtitle 1, Part II of this title; **OR**

3 (7) **THE VICTIM INCURRED REASONABLE COSTS, INCLUDING**
4 **REASONABLE ATTORNEY'S FEES:**

5 (I) **FOR CLEARING THE VICTIM'S CREDIT HISTORY OR**
6 **CREDIT RATING; OR**

7 (II) **IN CONNECTION WITH A CIVIL OR ADMINISTRATIVE**
8 **PROCEEDING TO SATISFY A DEBT, LIEN, JUDGMENT, OR OTHER OBLIGATION OF**
9 **THE VICTIM THAT AROSE DUE TO A CRIME OR DELINQUENT ACT.**

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

12 (1) the victim or the State requests restitution; and

13 (2) the court is presented with competent evidence of any item listed
14 in subsection (a) of this section.

15 (c) (1) A judgment of restitution does not preclude the property owner or
16 the victim who suffered personal physical or mental injury, out-of-pocket loss of
17 earnings, **BENEFITS, [or] support, OR WHO RECEIVED AN AWARD OR OTHER**
18 **AMOUNT UNDER SUBSECTION (A) OF THIS SECTION,** from bringing a civil action to
19 recover damages from the 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 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect
26 October 1, 2010.