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FROM THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES

February 4, 2020

Chair Luke Clippinger
Judiciary Committee
Room 101
House Office Building
Annapolis, Maryland 21401

RE: House Bill 358: Victims' Rights - Restitution

POSITION: Support

Dear Chair Clippinger and Members of the Judiciary Committee:

The Governor's Office of Crime Prevention, Youth, and Victim Services supports House Bill 358: Victim Rights- Restitution.

This legislation requires the court to enter a judgment of restitution for damages that resulted from the crime or delinquent act committed by the Defendant, in addition to any other penalty rendered by the court. Victims would be able to recover damages for the following: (1) loss of financial value to the property of the victim, (2) actual medical, dental, hospital, counseling, funeral, or burial expenses or losses, (3) direct-out-of-pocket financial loss, (4) loss of earnings, and (5) expenses incurred with rehabilitation.

House Bill 358 would require the following procedures before a court orders a judgement of restitution: (1) The Defendant or Child Respondent shall receive notice that the court will consider the issue of restitution in the case and the amount of restitution being sought, (2) the Victim or State entity shall present the court with competent evidence of restitution needed, and (3) the Defendant or Child Respondent shall be given a fair opportunity to present evidence to contest the issue of restitution. The court would be exempted from issuing if there are

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extraordinary circumstances that make a judgment of restitution inappropriate. However, a court may not use the Defendant's current inability to pay restitution as an extraordinary circumstance to not order judgment.

Inability to pay restitution may not be used as the sole basis by the court to (1) find the Defendant in contempt of court, (2) revoke probation, or (3) find that the obligator has violated a condition of release. If the court enters a judgment of restitution, in order to challenge the judgment the Defendant must file a notice of appeal within 30 days.

The Governor's Office of Crime Prevention, Youth, and Victim Services ("GOCYVS") is home to the Victim Services Unit ("VSU") in Maryland. The VSU was established based on a report required under the Justice Reinvestment Act (JRA). Under the JRA improving restitution collection is a priority. Among the primary goals of the VSU are to ensure that victims of crime are safe, self-sufficient, and aware of resources and information. GOCYVS, along with the Justice Reinvestment Oversight Board, was statutorily charged with conducting a statewide study and providing recommendations on restitution best practices.

In a survey issued to the courts, State's Attorney's Offices, Division of Parole and Probation, Department of Juvenile Services, victim services agencies, and crime victims over 29% of respondents listed court refusal to order restitution as the largest barrier to a victim obtaining a restitution order. When asked to identify the largest barriers to successful restitution collection in their jurisdictions, 80% of those surveyed identified wilful non-payment by the Defendant/Respondent as a top barrier to collection. Court mandated restitution would eliminate these significant barriers for victims in the collection of restitution. If a judgment of restitution is mandated by the court during the primary adjudication of the Defendant, further financial hardships and economic burdens for the victim could be mitigated. Victims would have a better opportunity of being made whole following the traumatic event than under the current statute.

For these reasons, the Governor's Office of Crime Prevention, Youth, and Victim Services supports House Bill 358 and urges a favorable report.

Sincerely,



V. Glenn Fueston, Jr.

Executive Director

Governor's Office of Crime Prevention, Youth, and Victim Services