

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0481.02 Jerry Barry x4341

SENATE BILL 16-065

SENATE SPONSORSHIP

Steadman, Aguilar, Jahn, Merrifield, Ulibarri

HOUSE SPONSORSHIP

(None),

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING CRIMINAL RESTITUTION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill specifies that the amount of restitution and whether interest accrues on the amount due may be negotiated as part of a plea agreement. It also specifies that a restitution order is in effect for only 2 years after the defendant's death.

Under current law, interest accrues on unpaid restitution amounts at the rate of 12% per annum. The bill provides that an order of restitution may include interest at the simple rate of 3% per annum but that it does not accrue while a defendant is incarcerated or is current on a payment

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

plan. The bill specifies that an order of restitution that does not state that interest accrues may not be modified to include the accrual of interest.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 18-1.3-603, **amend**
3 (1) introductory portion, (1) (a), (4) (a), and (4) (b); and **add** (4.5) as
4 follows:

5 **18-1.3-603. Assessment of restitution - corrective orders.**

6 (1) Every order of conviction of a felony, misdemeanor, petty, or traffic
7 misdemeanor offense, except any order of conviction for a state traffic
8 misdemeanor offense issued by a municipal or county court in which the
9 prosecuting attorney is acting as a special deputy district attorney
10 pursuant to an agreement with the district attorney's office, ~~shall~~ **MUST**
11 include consideration of restitution. Each such order ~~shall~~ **MUST** include
12 one or more of the following:

13 (a) An order of a specific amount of restitution be paid by the
14 defendant; EXCEPT THAT THE AMOUNT OF RESTITUTION MAY BE
15 NEGOTIATED AS PART OF A PLEA AGREEMENT BETWEEN THE PROSECUTION
16 AND THE DEFENDANT;

17 (4) (a) Any order for restitution entered pursuant to this section
18 ~~shall be~~ **IS** a final civil judgment in favor of the state and any victim.
19 Notwithstanding any other civil or criminal statute or rule, any such
20 judgment ~~shall remain~~ **REMAINS** in force until the restitution is paid in full
21 OR UNTIL TWO YEARS AFTER THE DEATH OF THE DEFENDANT. The
22 provisions of article 18.5 of title 16, C.R.S., apply notwithstanding the
23 termination of a deferred judgment and sentence or a deferred
24 adjudication.

25 (b) Any order for restitution made pursuant to this section ~~shall~~ **IS**

1 also ~~be deemed to~~ AN order that

2 ~~(I) The defendant owes interest from the date of the entry of the~~
3 ~~order at the rate of twelve percent per annum; and~~

4 ~~(H) the defendant owes all reasonable and necessary attorney fees~~
5 ~~and costs incurred in collecting such order due to the defendant's~~
6 ~~nonpayment.~~

7 (4.5) AN ORDER OF RESTITUTION MAY INCLUDE INTEREST SUBJECT
8 TO THE PROVISIONS OF SECTION 18-1.3-603.5.

9 **SECTION 2.** In Colorado Revised Statutes, **add** 18-1.3-603.5 as
10 follows:

11 **18-1.3-603.5. Interest on restitution.** (1) AN ORDER FOR
12 PAYMENT OF RESTITUTION PURSUANT TO SECTION 18-1.3-603 MAY
13 INCLUDE A PROVISION THAT THE DEFENDANT OWES INTEREST ON THE
14 AMOUNT OF RESTITUTION SUBJECT TO THE FOLLOWING:

15 (a) IF INTEREST IS ORDERED, SIMPLE INTEREST ACCRUES AT THE
16 RATE OF THREE PERCENT PER ANNUM AND IS NOT COMPOUNDED;

17 (b) INTEREST DOES NOT ACCRUE WHILE:

18 (I) THE DEFENDANT IS SERVING A SENTENCE IN THE DEPARTMENT
19 OF CORRECTIONS OR A JAIL; OR

20 (II) THE DEFENDANT IS CURRENT ON ANY AGREEMENT TO MAKE
21 PERIODIC PAYMENTS ON THE AMOUNT OF RESTITUTION OWED PURSUANT
22 TO SECTION 16-18.5-104, C.R.S.

23 (2) WHETHER INTEREST IS INCLUDED IN AN ORDER OF RESTITUTION
24 MAY BE NEGOTIATED AS PART OF A PLEA AGREEMENT BETWEEN THE
25 PROSECUTION AND THE DEFENDANT.

26 (3) AN ORDER OF RESTITUTION PURSUANT TO SECTION 18-1.3-603
27 THAT DOES NOT SPECIFICALLY INCLUDE A PROVISION STATING THAT

1 INTEREST ACCRUES ON THE AMOUNT OF RESTITUTION DUE MAY NOT BE
2 MODIFIED TO INCLUDE INTEREST ON THE AMOUNT OF RESTITUTION DUE.

3 **SECTION 3. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.