

VIRGINIA ACTS OF ASSEMBLY -- 2003 RECONVENED SESSION

CHAPTER 982

An Act to amend and reenact § 19.2-305.1 of the Code of Virginia, relating to restitution for certain damages.

[H 2008]

Approved April 2, 2003

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-305.1 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-305.1. Restitution for property damage or loss; community service.

A. Notwithstanding any other provision of law, no person convicted of a crime in violation of any provision in Title 18.2, ~~except the provisions of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2, on or after July 1, 1977,~~ which resulted in property damage or loss, shall be placed on probation or have his sentence suspended unless such person shall make at least partial restitution for such property damage or loss, or shall be compelled to perform community services, or both, or shall submit a plan for doing that which appears to the court to be feasible under the circumstances.

~~A~~ B. Notwithstanding any other provision of law, any person who, on or after July 1, 1995, commits, and is convicted of, a crime in violation of any provision in Title 18.2 ~~except the provisions of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2~~ shall make at least partial restitution for any property damage or loss caused by the crime or for ~~actual~~ any medical expenses ~~or expenses directly related to funeral or burial~~ incurred by the victim ~~or his estate~~ as a result of the crime, may be compelled to perform community services and, if the court so orders, shall submit a plan for doing that which appears to be feasible to the court under the circumstances.

B C. At or before the time of sentencing, the court shall receive and consider any plan for making restitution submitted by the defendant. The plan shall include the defendant's home address, place of employment and address, social security number and bank information. If the court finds such plan to be reasonable and practical under the circumstances, it may consider probation or suspension of whatever portion of the sentence that it deems appropriate. By order of the court incorporating the defendant's plan or a reasonable and practical plan devised by the court, the defendant shall make restitution while he is free on probation or work release or following his release from confinement. Additionally, the court may order that the defendant make restitution during his confinement, if feasible, based upon both his earning capacity and net worth as determined by the court at sentencing.

C D. At the time of sentencing, the court shall determine the amount to be repaid by the defendant and the terms and conditions thereof. If community service work is ordered, the court shall determine the terms and conditions upon which such work shall be performed. The court shall include such findings in the judgment order. The order shall specify that sums paid under such order shall be paid to the clerk, who shall disburse such sums as the court may, by order, direct. Any court desiring to participate in the Setoff Debt Collection Act (§§ 58.1-520 through 58.1-535) for the purpose of collecting fines or costs or providing restitution shall, at the time of sentencing, obtain the social security number of each defendant.

D E. Unreasonable failure to execute the plan by the defendant shall result in revocation of the probation or imposition of the suspended sentence. A hearing shall be held in accordance with the provisions of this Code relating to revocation of probation or imposition of a suspended sentence before either such action is taken.

E F. If restitution is ordered to be paid by the defendant to the victim of a crime and the victim can no longer be located or identified, the clerk shall deposit any such restitution collected to the Criminal Injuries Compensation Fund for the benefit of crime victims. The administrator shall reserve a sum sufficient in the Fund from which he shall make prompt payment to the victim for any proper claims. Before making the deposit he shall record the name, last known address and amount of restitution due each victim appearing from the clerk's report to be entitled to restitution.