

DEPARTMENT OF TAXATION

2007 Fiscal Impact Statement

1. **Patron** Robert B. Bell

2. **Bill Number** HB 2966

3. **Committee** House Courts of Justice

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Restitution for Property Damage or Loss;

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would strengthen the procedures for ordering, tracking and collecting restitution for the victims of crimes. The Court would be required to inquire whether any financial loss subject to restitution arose from the crime. If so, the court must order restitution and approve a plan for its payment. If the plan includes installment payments, the court order shall specify that if delinquent more than 40 days the plan is void, the balance is immediately due, and allow the Tax Commissioner to collect it. Collection fees charged by TAX or private collectors shall be added to the amount owed by the defendant. The clerk of the court would not be required to monitor compliance with the restitution but is required to record restitution receipts in the Supreme Court's automated system or another approved system.

The bill would be effective for restitution ordered on and after July 1, 2008.

6. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

6a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2006-07	\$0	0	GF
2007-08	\$0	0	GF
2008-09	\$449,444	4	GF
2009-10	\$231,187	4	GF
2010-11	\$237,103	4	GF
2011-12	\$243,196	4	GF
2012-13	\$249,472	4	GF

7. **Budget amendment necessary:** Yes.

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8. Fiscal implications:

Administrative Costs

TAX would incur administrative costs of \$449,444 for FY 2009, \$231,187 for FY 2010, \$237,103 for FY 2011, \$243,196 for FY 2012 and \$249,472 for 4 full time employees and to update TAX's computer system.

Revenue Impact

There would be no revenue impact associated with this bill.

9. Specific agency or political subdivisions affected:

Department of Taxation
Clerks of Court
State Compensation Board
Commonwealth's Attorneys

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Virginia law currently requires a defendant who causes property damage or loss to make restitution to the victim of the crime. The defendant is required to submit a plan for such restitution. The court may use the Setoff Debt Collection Act in order to aid in the collection of fines, costs or amounts due for restitution.

The clerk of either the circuit court or district court is required to submit a monthly report of all fines, costs and penalties that are delinquent for more than 30 days to the judge of his court, TAX, the State Compensation Board and the Commonwealth's Attorney of his county or city. The Commonwealth's Attorney is required to institute proceedings for the collection of delinquent restitution and may use a private collection agency, a local governing body or the Department of Taxation to aid in such collection.

Proposal

This bill would require the Court to inquire about restitution before sentencing a defendant. This bill makes a number of technical amendments to the restitution sections of the Code including:

- Requires that the court order a plan for restitution when sentencing a defendant to probation or suspended sentence.
- Clarifies that restitution could be made for any past or future medical bills, or any other expenses directly related to vocational or rehabilitative physical therapy, as a result of the crime.

- Requires the court, at sentencing, to inquire of the Commonwealth's Attorney or the victim whether any financial loss subject to restitution arose from the offense and present evidence of such.
- Requires defendants to begin making payments while he is free on probation, or if feasible during his confinement.
- Requires the order of restitution to be docketed and include interest.
- Require the clerk of court receive restitution payments and record such payments in an approved automated system.
- Permits the clerk of the court, if he receives a restitution payment made payable to the order of the victim, to endorse the payment on behalf of the victim and process payment in the same manner as if payable to the clerk of the court, as required.

In addition, this bill would require the order directing restitution to specify that any installment plan entered into by the defendant that becomes delinquent by more than 40 days to be void, and the outstanding balance immediately would become due, and would allow the Tax Commissioner to collect any such outstanding balance. Further, whenever the attorney for the Commonwealth uses TAX or contracts with any private attorney or collection agency to collect delinquent court-ordered restitution, in addition to the court-ordered restitution, the collection fees of such entity or individual would be paid by the defendant. TAX and the Compensation Board will establish procedures for the payment of such fees.

cc : Secretary of Finance

Date: 1/26/2007 JOC
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