

1 AN ACT in relation to criminal law.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Unified Code of Corrections is amended by
5 changing Section 5-5-6 as follows:

6 (730 ILCS 5/5-5-6) (from Ch. 38, par. 1005-5-6)

7 Sec. 5-5-6. Restitution. In all convictions for
8 offenses in violation of the Criminal Code of 1961 and
9 Section 11-503 of the Illinois Vehicle Code in which the
10 person received any injury to their person or damage to their
11 real or personal property as a result of the defendant's
12 ~~criminal~~ act ~~of--the--~~defendant, the court shall order
13 restitution as provided in this Section. In all other cases,
14 except cases in which restitution is required under this
15 Section, the court must at the sentence hearing determine
16 whether restitution is an appropriate sentence to be imposed
17 on each defendant convicted of an offense. If the court
18 determines that an order directing the offender to make
19 restitution is appropriate, the offender may be sentenced to
20 make restitution. If the offender is sentenced to make
21 restitution the Court shall determine the restitution as
22 hereinafter set forth:

23 (a) At the sentence hearing, the court shall
24 determine whether the property may be restored in kind to
25 the possession of the owner or the person entitled to
26 possession thereof; or whether the defendant is possessed
27 of sufficient skill to repair and restore property
28 damaged; or whether the defendant should be required to
29 make restitution in cash, for out-of-pocket expenses,
30 damages, losses, or injuries found to have been
31 proximately caused by the conduct of the defendant or

1 another for whom the defendant is legally accountable
2 under the provisions of Article V of the Criminal Code of
3 1961.

4 (b) In fixing the amount of restitution to be paid
5 in cash, the court shall allow credit for property
6 returned in kind, for property damages ordered to be
7 repaired by the defendant, and for property ordered to be
8 restored by the defendant; and after granting the credit,
9 the court shall assess the actual out-of-pocket expenses,
10 losses, damages, and injuries suffered by the victim
11 named in the charge and any other victims who may also
12 have suffered out-of-pocket expenses, losses, damages,
13 and injuries proximately caused by the same criminal
14 conduct of the defendant, and insurance carriers who have
15 indemnified the named victim or other victims for the
16 out-of-pocket expenses, losses, damages, or injuries,
17 provided that in no event shall restitution be ordered to
18 be paid on account of pain and suffering. The trial
19 court may, in its discretion, order reimbursement of
20 expenses for reasonable security measures incurred by a
21 victim following the commission of the offense. If a
22 defendant is placed on supervision for, or convicted of,
23 domestic battery, the defendant shall be required to pay
24 restitution to any domestic violence shelter in which the
25 victim and any other family or household members lived
26 because of the domestic battery. The amount of the
27 restitution shall equal the actual expenses of the
28 domestic violence shelter in providing housing and any
29 other services for the victim and any other family or
30 household members living at the shelter. If a defendant
31 fails to pay restitution in the manner or within the time
32 period specified by the court, the court may enter an
33 order directing the sheriff to seize any real or personal
34 property of a defendant to the extent necessary to

1 satisfy the order of restitution and dispose of the
2 property by public sale. All proceeds from such sale in
3 excess of the amount of restitution plus court costs and
4 the costs of the sheriff in conducting the sale shall be
5 paid to the defendant. The defendant convicted of
6 domestic battery, if a person under 18 years of age who
7 is the child of the offender or of the victim was present
8 and witnessed the domestic battery of the victim, is
9 liable to pay restitution for the cost of any counseling
10 required for the child at the discretion of the court.

11 (c) In cases where more than one defendant is
12 accountable for the same criminal conduct that results in
13 out-of-pocket expenses, losses, damages, or injuries,
14 each defendant shall be ordered to pay restitution in the
15 amount of the total actual out-of-pocket expenses,
16 losses, damages, or injuries to the victim proximately
17 caused by the conduct of all of the defendants who are
18 legally accountable for the offense.

19 (1) In no event shall the victim be entitled
20 to recover restitution in excess of the actual
21 out-of-pocket expenses, losses, damages, or
22 injuries, proximately caused by the conduct of all
23 of the defendants.

24 (2) As between the defendants, the court may
25 apportion the restitution that is payable in
26 proportion to each co-defendant's culpability in the
27 commission of the offense.

28 (3) In the absence of a specific order
29 apportioning the restitution, each defendant shall
30 bear his pro rata share of the restitution.

31 (4) As between the defendants, each defendant
32 shall be entitled to a pro rata reduction in the
33 total restitution required to be paid to the victim
34 for amounts of restitution actually paid by

1 co-defendants, and defendants who shall have paid
2 more than their pro rata share shall be entitled to
3 refunds to be computed by the court as additional
4 amounts are paid by co-defendants.

5 (d) In instances where a defendant has more than
6 one criminal charge pending against him in a single case,
7 or more than one case, and the defendant stands convicted
8 of one or more charges, a plea agreement negotiated by
9 the State's Attorney and the defendants may require the
10 defendant to make restitution to victims of charges that
11 have been dismissed or which it is contemplated will be
12 dismissed under the terms of the plea agreement, and
13 under the agreement, the court may impose a sentence of
14 restitution on the charge or charges of which the
15 defendant has been convicted that would require the
16 defendant to make restitution to victims of other
17 offenses as provided in the plea agreement.

18 (e) The court may require the defendant to apply
19 the balance of the cash bond, after payment of court
20 costs, and any fine that may be imposed to the payment of
21 restitution.

22 (f) Taking into consideration the ability of the
23 defendant to pay, the court shall determine whether
24 restitution shall be paid in a single payment or in
25 installments, and shall fix a period of time not in
26 excess of 5 years, not including periods of
27 incarceration, within which payment of restitution is to
28 be paid in full. Complete restitution shall be paid in as
29 short a time period as possible. However, if the court
30 deems it necessary and in the best interest of the
31 victim, the court may extend beyond 5 years the period of
32 time within which the payment of restitution is to be
33 paid. If the defendant is ordered to pay restitution and
34 the court orders that restitution is to be paid over a

1 period greater than 6 months, the court shall order that
2 the defendant make monthly payments; the court may waive
3 this requirement of monthly payments only if there is a
4 specific finding of good cause for waiver.

5 (g) The court shall, after determining that the
6 defendant has the ability to pay, require the defendant
7 to pay for the victim's counseling services if:

8 (1) the defendant was convicted of an offense
9 under Sections 11-19.2, 11-20.1, 12-13, 12-14,
10 12-14.1, 12-15 or 12-16 of the Criminal Code of
11 1961, or was charged with such an offense and the
12 charge was reduced to another charge as a result of
13 a plea agreement under subsection (d) of this
14 Section, and

15 (2) the victim was under 18 years of age at
16 the time the offense was committed and requires
17 counseling as a result of the offense.

18 The payments shall be made by the defendant to the
19 clerk of the circuit court and transmitted by the clerk
20 to the appropriate person or agency as directed by the
21 court. The order may require such payments to be made
22 for a period not to exceed 5 years after sentencing, not
23 including periods of incarceration.

24 (h) The judge may enter an order of withholding to
25 collect the amount of restitution owed in accordance with
26 Part 8 of Article XII of the Code of Civil Procedure.

27 (i) A sentence of restitution may be modified or
28 revoked by the court if the offender commits another
29 offense, or the offender fails to make restitution as
30 ordered by the court, but no sentence to make restitution
31 shall be revoked unless the court shall find that the
32 offender has had the financial ability to make
33 restitution, and he has wilfully refused to do so. When
34 the offender's ability to pay restitution was established

1 at the time an order of restitution was entered or
2 modified, or when the offender's ability to pay was based
3 on the offender's willingness to make restitution as part
4 of a plea agreement made at the time the order of
5 restitution was entered or modified, there is a
6 rebuttable presumption that the facts and circumstances
7 considered by the court at the hearing at which the order
8 of restitution was entered or modified regarding the
9 offender's ability or willingness to pay restitution have
10 not materially changed. If the court shall find that the
11 defendant has failed to make restitution and that the
12 failure is not wilful, the court may impose an additional
13 period of time within which to make restitution. The
14 length of the additional period shall not be more than 2
15 years. The court shall retain all of the incidents of
16 the original sentence, including the authority to modify
17 or enlarge the conditions, and to revoke or further
18 modify the sentence if the conditions of payment are
19 violated during the additional period.

20 (j) The procedure upon the filing of a Petition to
21 Revoke a sentence to make restitution shall be the same
22 as the procedures set forth in Section 5-6-4 of this Code
23 governing violation, modification, or revocation of
24 Probation, of Conditional Discharge, or of Supervision.

25 (k) Nothing contained in this Section shall
26 preclude the right of any party to proceed in a civil
27 action to recover for any damages incurred due to the
28 criminal misconduct of the defendant.

29 (l) Restitution ordered under this Section shall
30 not be subject to disbursement by the circuit clerk under
31 Section 27.5 of the Clerks of Courts Act.

32 (m) A restitution order under this Section is a
33 judgment lien in favor of the victim that:

34 (1) Attaches to the property of the person

1 subject to the order;

2 (2) May be perfected in the same manner as
3 provided in Part 3 of Article 9 of the Uniform
4 Commercial Code;

5 (3) May be enforced to satisfy any payment
6 that is delinquent under the restitution order by
7 the person in whose favor the order is issued or the
8 person's assignee; and

9 (4) Expires in the same manner as a judgment
10 lien created in a civil proceeding.

11 When a restitution order is issued under this
12 Section, the issuing court shall send a certified copy of
13 the order to the clerk of the circuit court in the county
14 where the charge was filed. Upon receiving the order,
15 the clerk shall enter and index the order in the circuit
16 court judgment docket.

17 (n) An order of restitution under this Section does
18 not bar a civil action for:

19 (1) Damages that the court did not require the
20 person to pay to the victim under the restitution
21 order but arise from an injury or property damages
22 that is the basis of restitution ordered by the
23 court; and

24 (2) Other damages suffered by the victim.

25 The restitution order is not discharged by the completion
26 of the sentence imposed for the offense.

27 A restitution order under this Section is not discharged
28 by the liquidation of a person's estate by a receiver. A
29 restitution order under this Section may be enforced in the
30 same manner as judgment liens are enforced under Article XII
31 of the Code of Civil Procedure.

32 The provisions of Section 2-1303 of the Code of Civil
33 Procedure, providing for interest on judgments, apply to
34 judgments for restitution entered under this Section.

1 (Source: P.A. 91-153, eff. 1-1-00; 91-262, eff. 1-1-00;
2 91-420, eff. 1-1-00; 92-16, eff. 6-28-01.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.