

Restitution Orders; Senate Sub. for HB 2034

Senate Sub. for HB 2034 amends law related to court orders for restitution by criminal defendants.

Under previous law, a court was required to order restitution unless the court found compelling circumstances that would render a plan of restitution unworkable. The bill amends this provision to require a court to order restitution and to specify that ordered restitution shall be due immediately, unless the court orders that the defendant be given a specified time to pay or be allowed to pay in specified installments, or the court finds compelling circumstances that would render restitution unworkable, either in whole or in part. The bill amends continuing provisions requiring the court to state reasons for unworkability on the record and requiring the court to initiate collection proceedings if the defendant is in noncompliance with the restitution order after 60 days to reflect the above amendments. The collection provisions also are amended to reflect enacted changes to related statutes.

A provision is added to allow a defendant subject to a restitution order entered prior to the effective date of the bill to file a motion prior to December 31, 2020, proposing payment of restitution in specified installments, if the order does not give the defendant a specified time to pay or set payment in specified installments. The court may recall the restitution order from the assigned agent until the court rules on the motion. If the court does not order payment in specified installments, or if the defendant does not file a motion by the above date, the restitution will be due immediately.

The bill specifies the above amendments are procedural in nature and shall be construed and applied retroactively.

The bill amends the statute governing conditions of probation or suspended sentence to direct that reparation or restitution in such cases be made in accordance with the procedure amended by the bill.