

Date of Hearing: April 26, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

AB 1186 (Bonta) – As Introduced February 16, 2023

Policy Committee: Public Safety

Vote: 7 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

**SUMMARY:**

This bill removes the ability of a court to require a juvenile to pay direct victim restitution, provides instead that the Victim Compensation Board (Board) must make restitution payments to victims beginning on January 1, 2023, and permits a court to order a juvenile to participate in alternative accountability programs to make amends for their criminal conduct. The bill requires that these alternative accountability options, like restorative justice programs, community service, counseling, and mental health programs, must be provided to the juvenile at no cost.

**FISCAL EFFECT:**

- 1) Costs in the tens of millions of dollars annually (General Fund) for the Board to pay direct victim restitution orders. The sponsors of the bill estimate that between 8,000 and 13,000 restitution orders are imposed on juvenile offenders each year at an average total of \$12.4 million per year. The Board anticipates that courts may begin ordering higher amounts of restitution under this bill because the bill provides a state guarantee of payment, so costs may increase over time.
- 2) Costs of \$1,820,000 annually (General Fund) for the Board to fund 13 new staff positions to administer the juvenile restitution program established by this bill. Additional one-time costs of approximately \$750,000 for the Board to create a new database to process juvenile restitution orders.

**COMMENTS:**

- 1) **Author's Statement.** According to the author:

Our current restitution system is broken. Restitution was meant to make crime survivors whole, but in reality, it's creating a perpetual cycle of debt, especially for poor Black and brown families. Debt from restitution never expires and cannot be discharged in bankruptcy proceedings. There is no limit as to how much a court can order for restitution and a young person's ability to pay cannot be taken into consideration. We have ended up with a system where already struggling families cannot afford to pay this debt, leaving crime survivors without the ability to access the resources they need to heal and move on. California is in need of an alternative system that holds young people accountable while placing them, and survivors, on a more just and economically secure path.

- 2) **Juvenile Restitution.** Current law requires juvenile courts to order a ward of the court to pay fees, a restitution fine, and a direct victim restitution order. A restitution order is an order requiring a juvenile to make direct financial payments to the victim of the juvenile's crime to fully compensate the victim for any economic losses the victim experienced as a result of the crime committed by a juvenile. This bill prohibits a court, beginning on January 1, 2024, from requiring a juvenile or their parent to pay a direct victim restitution order. Instead, this bill requires that the Board must pay any restitution orders issued by the courts in juvenile cases after January 1, 2024. This is a significant shift that will make the state responsible for paying direct restitution orders instead of individual juveniles. The author of the bill submitted a budget request of \$12.4 million annually to fulfill the requirements of this bill.

The bill also provides alternative, non-monetary ways for the courts to hold juveniles accountable for criminal conduct and make amend for the harms they caused. The bill allows a court to order a juvenile to participate in these programs at no cost to the juvenile, including, in specified circumstances, counseling, community service, restorative justice efforts, and educational, employment, youth development, or mental health programs.

- 3) **Statement in Support.** According to the Anti-Recidivism Coalition:

The bill will provide crime survivors with more equitable, timely, and stable compensation, while setting youth, who are accused of causing harm, on a meaningful path towards rehabilitation and accountability... California's current restitution system is broken and fails survivors, youth, and their families. Crime survivors often need immediate care and resources, and rely on restitution payments to receive compensation. Because most youth cannot pay, only a small fraction of crime survivors ever receive any compensation. Public records data, received by the Berkeley Law Policy Advocacy Clinic, shows that only about 20% of California youth restitution ordered since 2010 has been collected, and much of the outstanding debt is years old and unlikely ever to be paid.

- 4) **Statement in Opposition.** According to the California District Attorneys Association:

AB 1186 requires the court to determine the economic loss and issue a restitution order, but does not create a mechanism for payment. The bill would require the California Victim Compensation Board, upon appropriation by the Legislature, to compensate the victim for the amount in the order. Not all crimes qualify for compensation through the Victim Compensation Board. A qualifying crime must involve physical injury, threat of physical injury or death and certain crimes of emotion injury qualify. A governmental monetary source for victim restitution is a needed, but this bill does not create this option. Under Marsy's Law, a person who suffers a loss resulting from criminal activity shall have the right to seek and secure restitution. This bill would limit a victim's right to secure monetary restitution, as it eliminates from WIC 202(f) the requirement that a minor pay restitution to the victim.