

ASSEMBLY THIRD READING
AB 1186 (Bonta)
As Introduced February 16, 2023
Majority vote

SUMMARY

Removes the ability of the court to require a minor to pay victim restitution.

Major Provisions

- 1) Removes victim restitution as a permissible punishment for minors under the jurisdiction of the juvenile court. Instead, allows minors to participate in a restorative justice program, perform community service, or participate in an educational, employment, youth development, or mental health program.
- 2) Repeals provisions of law that allow cities, counties, schools and government agencies, as specified, to recoup through juvenile proceedings, costs associated with defacement by minors of property. Instead, allows the minor to participate in a restorative justice or other youth-appropriate program.
- 3) Removes the ability of the court to order the minor to make restitution for any crime, to pay \$250 fine to be deposited in the county treasury, or to participate in uncompensated work programs. Instead requires the minor to make amends by participating in a restorative justice program, performing community service, or participating in an educational, employment, youth development, or mental health program.
- 4) Permits the court to order a minor who cause an economic loss to a victim because of their conduct, to make amends by participating in a restorative justice program, performing community service, or participating in an educational, employment, youth development, or mental health program.
- 5) Requires these alternative programs to be youth appropriate, limited to no more than 25 hours, not interfere with the minor's school or work commitments, and be provided at no cost to the minor or their parent or guardian.
- 6) Removes the ability of the court, when a minor is placed under the supervision of the probation officer, to require the minor to work and earn money for the support of their dependents or to effect reparation.
- 7) Removes the requirement that a minor ordered by the juvenile court to complete a sex offender treatment program must pay the reasonable costs of the program. Provides that the minor or the minor's parent or guardian shall not be responsible for the cost of the program.
- 8) Removes the ability of the court to require a minor to pay restitution to the victim when they participate in deferred entry of judgement.
- 9) States that a minor or the minor's parent or guardian shall not be ordered to pay restitution to a victim who incurs economic loss because of the minor's conduct.

- 10) Repeals the ability of the court to issue a citation to a minor's parents or guardians making them liable for the payment of restitution.
- 11) Prohibits the court from considering a minor's future earning capacity as a factor in determining a minor's ability to pay a restitution fine.
- 12) States that restitution for the amount of economic loss suffered as a result of a minor's conduct shall be determined by the court and shall identify each victim.
- 13) Provides after issuing a restitution order, the juvenile court shall transmit the order to the California Victim Compensation Board (the Board) for issuance of payment to the victim. Victims shall receive restitution directly from the Board.
- 14) Requires the Board, upon appropriation by the Legislature, to compensate victims in the amount outlined in a restitution order.
- 15) States that it is the intent of the Legislature that no minor or the minor's parent or guardian shall be ordered to pay restitution to a victim that incurred economic loss as a result of the conduct of that minor.
- 16) States that it is the intent of the Legislature to eliminate the current youth restitution system and publicly fund survivor compensation.
- 17) Provides that the changes do not apply to juvenile restitution orders made before January 1, 2023.
- 18) States legislative findings and declarations.
- 19) Makes other technical, conforming changes.

COMMENTS

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."

Arguments in Support

According to *Initiate Justice*, "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.

"Furthermore, the current restitution system drives already struggling families into cycles of poverty and incarceration. Under current state law, judges order youth, who have been accused of causing harm, to pay direct monetary compensation, or restitution, to a person who has experienced loss or injury. Judges are prohibited from considering economic ability to pay compensation. Children as young as 6 years old (dating back to when the law allowed for youth under 12 to be referred to juvenile court) have been ordered restitution—meaning children who have no ability to work or pay a debt. Because youth are considered dependents, parents are held jointly and severally liable for their child's restitution. Often, families cannot afford to pay restitution orders, which are converted into civil judgments, enforceable through wage garnishment, tax refund intercept, and bank levy. Once a youth is eighteen years old, they are also subject to these penalties, hindering their economic stability as they enter the pivotal years of young adulthood.

"The REPAIR Act seeks to make survivors whole and create meaningful opportunities for youth to rehabilitate and be held accountable. AB 1186 will provide the opportunity for judges to address racial and economic equity, by ensuring that harm is addressed in youth-appropriate ways, without perpetuating cycles of poverty, and requiring that youth have the opportunity to participate in restorative justice practices, community service, and/or be connected to job opportunities. AB 1186 would establish a public compensation fund that would ensure crime survivors can address immediate needs for compensation to recover from loss or injury."

Arguments in Opposition

None Submitted.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 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 \$1.82 million 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.

VOTES

ASM PUBLIC SAFETY: 7-0-1

YES: Jones-Sawyer, Alanis, Bonta, Bryan, Jackson, Santiago, Zbur

ABS, ABST OR NV: Lackey

ASM APPROPRIATIONS: 11-4-1

YES: Holden, Bryan, Calderon, Wendy Carrillo, Mike Fong, Hart, Lowenthal, Papan, Pellerin, Weber, Ortega

NO: Megan Dahle, Dixon, Mathis, Sanchez

ABS, ABST OR NV: Robert Rivas

UPDATED

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