

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 15-0455.01 Michael Dohr x4347

HOUSE BILL 15-1070

HOUSE SPONSORSHIP

Buckner,

SENATE SPONSORSHIP

Martinez Humenik,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CHANGES TO THE CRIME PROFITS DISTRIBUTION**
102 **STATUTE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Current law provides a mechanism for any profits that an offender may receive as a result of the crime to be available to victims as restitution. The bill makes changes to how the money is distributed.

1 *Be it enacted by the General Assembly of the State of Colorado:*

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 **SECTION 1.** In Colorado Revised Statutes, 24-4.1-201, **amend**
2 (1.5) (b) (I), (1.5) (c), and (1.5) (d) (II), (1.5) (d) (III), (2), (3), (4), and
3 (4.5); and **add** (1.5) (b.5) as follows:

4 **24-4.1-201. Distribution of profits from crime - escrow**
5 **account - civil suit by victim - definitions.** (1.5) (b) (I) Any person who
6 contracts with a person convicted of a crime in this state, or such person's
7 representative or assignee, for payment of any profits from the crime of
8 which such person is convicted shall pay to the crime victim services
9 advisory board created in section 24-4.1-117.3 (1), referred to in this part
10 2 as the "board", any money that would otherwise by terms of the contract
11 be paid to the convicted person or such person's representatives or
12 assignees. The board shall ~~deposit the money in an escrow account for the~~
13 ~~benefit of any victim of the crime of which the person was convicted~~
14 **DISTRIBUTE THE MONEY AS DESCRIBED IN PARAGRAPH (b.5) OF THIS**
15 **SUBSECTION (1.5).**

16 (b.5) ~~IF THERE IS A COURT ORDER OF RESTITUTION IN THE CRIMINAL~~
17 ~~CASE RESULTING FROM THE CRIME THAT REMAINS UNPAID, ANY MONEY~~
18 ~~RECEIVED UNDER PARAGRAPH (b) OF THIS SUBSECTION (1.5) MUST FIRST~~
19 ~~BE APPLIED TO THAT ORDER OF RESTITUTION. IF THERE IS NO~~
20 ~~OUTSTANDING BALANCE FROM AN ORDER OF RESTITUTION OR THERE~~
21 ~~REMAINS ADDITIONAL MONEY, AND ALL VICTIMS ARE IDENTIFIED AND CAN~~
22 ~~BE LOCATED, THE MONEY RECEIVED OR THE REMAINING PORTION MUST BE~~
23 ~~APPORTIONED PRO RATA TO THE IDENTIFIED VICTIMS. FOR PURPOSES OF~~
24 ~~THIS SECTION, "VICTIM" HAS THE SAME MEANING AS IN SECTION~~
25 ~~24-4.1-302 (5). IF ALL VICTIMS ARE NOT KNOWN OR CANNOT BE LOCATED,~~
26 ~~THE BOARD SHALL DEPOSIT THE REMAINING MONEY IN AN ESCROW~~
27 ~~ACCOUNT FOR THE BENEFIT OF THE VICTIMS.~~

1 (c) UPON THE ESTABLISHMENT OF AN ESCROW ACCOUNT, any
2 person who is a victim of the crime from which a convicted person
3 receives profits under paragraph (b) of this subsection (1.5) may, within
4 ~~five~~ THREE years of establishment of the escrow account, enforce any
5 ~~order of restitution~~ JUDGMENT entered against the convicted person
6 against the ~~moneys~~ MONEY on deposit in the escrow account. If no ~~order~~
7 ~~of restitution~~ JUDGMENT has been entered, the victim may bring a civil
8 action in a court of competent jurisdiction to recover a judgment against
9 the convicted person or such person's representatives or designees. AFTER
10 ALL FILED CLAIMS ARE ESTABLISHED, THE BOARD SHALL DISTRIBUTE THE
11 MONEY IN THE ESCROW ACCOUNT TO SATISFY THE CLAIMS, OR SUCH
12 FRACTION OF EACH CLAIM AS CAN BE FULFILLED BY THE AVAILABLE
13 MONEY.

14 (d) (II) UNLESS ALL VICTIMS HAVE BEEN IDENTIFIED AND CAN BE
15 LOCATED, the board ~~in addition~~ shall publish at least once annually from
16 the date of the establishment of the escrow account, a notice of the
17 escrow account's establishment in a newspaper having general circulation
18 throughout the county in which the crime was committed. The expenses
19 of notification shall be paid from the amount received in the escrow
20 account. The board, in its discretion, may provide for such additional
21 notice as it deems necessary.

22 (III) The notice required under subparagraphs (I) and (II) of this
23 paragraph (d) shall specify the existence of the escrow account, the
24 amount on deposit, and the victim's right to execute an order of restitution
25 or bring a civil action to recover against the moneys in the escrow account
26 within ~~five~~ THREE years after the date the escrow account is established.

27 (2) If funds remain in the escrow account after payment of a

1 money judgment pursuant to subsection (1) of this section and if no civil
2 actions are pending under this section after ~~five~~ THREE years from the
3 establishment of an escrow account, the board shall notify the department
4 of corrections of the existence of such escrow account. The department
5 of corrections shall certify to the board a statement of the costs of
6 maintenance of the person in the state correctional institution or
7 institutions at which the person was incarcerated. A statement of the cost
8 of maintenance shall be submitted annually for payment to the department
9 of corrections by the board until such time as the person is released from
10 custody of the state. No such payment shall be made upon the dismissal
11 of the charges against any individual whose proceeds are placed in the
12 escrow account.

13 (3) Upon the dismissal of the charges against any individual
14 whose proceeds are placed in the escrow account or upon a showing by
15 the defendant that ~~five~~ THREE years have elapsed from the establishment
16 of an escrow account and that no civil actions are pending against him or
17 her under this section, the board shall immediately pay any money in the
18 escrow account to the defendant except for funds paid to the department
19 of corrections and anticipated as necessary for future payment to the
20 department of corrections as set forth in subsection (2) of this section.

21 (4) If an escrow account is established under this section, no
22 otherwise applicable statute of limitations on the time within which civil
23 action may be brought bars action by a victim of a crime committed by
24 the person accused or convicted of the crime, as to a claim resulting from
25 the crime, until ~~five~~ THREE years have elapsed from the time the escrow
26 account was established.

27 (4.5) The escrow account shall be established for a period of ~~five~~

1 ~~THREE~~ years. If an action is filed by a victim to recover the victim's
2 interest in the escrow account within such ~~five-year~~ ~~THREE-YEAR~~ period,
3 the escrow account shall continue until the conclusion of such action.

4 **SECTION 2. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.