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State Victim Advocate

STATE OF CONNECTICUT  
OFFICE OF GOVERNMENTAL ACCOUNTABILITY  
OFFICE OF THE VICTIM ADVOCATE  
505 HUDSON STREET, HARTFORD, CONNECTICUT 06106

Testimony of Garvin G. Ambrose, Esq., State Victim Advocate  
Submitted to the Judiciary Committee  
Friday, April 5, 2013

Good day Senator Coleman, Representative Fox and distinguished members of the Judiciary Committee. For the record, my name is Garvin Ambrose and I am the Victim Advocate for the State of Connecticut. Thank you for the opportunity to provide testimony concerning:

Raised House Bill No. 6686, An Act Concerning the Allocation of Seized Criminal Assets Toward the Payment of Past-Due Child Support Obligations

The Office of the Victim Advocate (OVA) supports Raised House Bill No. 6686 as it will assist in the collection of past due child support payments through the allocation of seized criminal assets. A parent who fails to pay court ordered child support puts an unnecessary burden on the custodial parent, and the children, as well as agencies responsible for the enforcement of child support orders. Although there are mechanisms available for the collection of past due child support, such as wage garnishment and interception of income tax refunds, there are few options available if the parent subjected to the order is not employed.

The OVA respectfully requests that the Committee consider a further amendment to the proposal for the payment towards court ordered restitution to a crime victim. Crime victims in Connecticut have a constitutional right to receive restitution. Pursuant to C.G.S. § 53a-28(c), restitution ordered by the court shall be based on easily ascertainable damages for injury or loss of property, actual expenses incurred for treatment for injury and lost wages resulting from injury. Restitution does not include reimbursement for damages for mental anguish, pain and suffering or other intangible losses. Restitution is an essential aspect of holding an offender accountable for the financial loss suffered by the crime victim.

Currently, during the disposition of a criminal matter, restitution is often ordered as a condition of a defendant's probation. However, if a defendant fails to comply with payment of the court ordered restitution or is arrested on new criminal charges, a violation of probation charge will likely be initiated. It is in this venue that court ordered restitution is regularly overlooked. Although the court has the ability to preserve the order of restitution through the issuance of a Written Order of Restitution (Form JD-CR-130) at the time of disposition, in addition to restitution as a condition of probation, the issuance of the Written Order of Restitution is also overlooked and under-utilized by many jurisdictions. The Written Order of Restitution is enforceable as a judgment in a civil action should the offender fail to comply with court ordered restitution as a condition of probation. I have attached a copy of the Written Order of Restitution for your review.

The unfortunate reality for many crime victims, who have been awarded restitution at the time of the disposition, is that the offender will fail to pay the full restitution or pay only a small portion of the court ordered restitution. In an effort to strengthen and improve the enforcement of court ordered restitution, the OVA would offer the following attached amendment to the proposal. In summary, the amendment would allow for the allocation of seized property in criminal matters to be remitted towards the payment of court ordered restitution.

While restitution serves to hold an offender accountable for the harm caused by the crime, as well as to promote the recovery of a crime victim, the lack of enforcement and collection of court ordered restitution remains a barrier to both. **I respectfully urge the Committee to further amend the proposal and favorably support Raised House Bill No. 6686.**

Respectfully submitted,



Garvin G. Ambrose, Esq.  
State Victim Advocate

***Proposed Amendment***

***Offered by the Office of the Victim Advocate***

**Raised House Bill No. 6686**

***AN ACT CONCERNING THE ALLOCATION OF SEIZED CRIMINAL ASSETS TOWARD THE PAYMENT OF PAST-DUE CHILD SUPPORT OBLIGATIONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsections (c) to (e), inclusive, of section 54-36a of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(c) Unless such seized property is stolen property and is ordered returned pursuant to subsection (b) of this section or unless such seized property is adjudicated a nuisance in accordance with section 54-33g, or unless the court finds that such property shall be forfeited or is contraband, or finds that such property is a controlled drug, a controlled substance or drug paraphernalia as defined in subdivision (8), (9) or (20) of section 21a-240, [it] the court shall, at the final disposition of the criminal action or as soon thereafter as is practical, or, if there is no criminal action, at any time upon motion of the prosecuting official of such court, order the return of such property to its owner within six months upon proper claim therefor, less any amount of past-due child support if the owner of such property is subject to a support order, as defined in section 52-362, which amount shall be remitted to payment of such past-due child support and, if the owner of such property is not subject to a support order or there is a balance after payment of such past due child support, less any amount of court ordered restitution if such owner is subject to a restitution order as provided by subsection (c) of Section 53a-28 of the general statutes, which amount shall be remitted to payment of such restitution through the Court Support Services Division, Judicial Branch.

(d) When the court orders the return of the seized property to the owner, the order shall provide that if the seized property is not claimed by the owner within six months, the property shall be destroyed or be given to a charitable or educational institution or to a governmental agency or institution, except that (1) if such property is money it shall be remitted to payment of past-due child support if the owner of such property is subject to a support order, as defined in section 52-362, and payment of court ordered restitution, pursuant to C.G.S. § 53a-28(c), if the owner of such property is not subject to a support order or there is a balance after payment of such past due child support and any balance shall be remitted to the state and shall be deposited in the General Fund, or (2) if such property is a valuable prize it shall be disposed of by public auction or private sale in which case the proceeds shall be remitted to payment of past-due child support if the owner of such property is subject to a support order, as defined in section

52-362, and payment of court ordered restitution, pursuant to C.G.S. § 53a-28(c), if the owner of such property is not subject to a support order or there is a balance after payment of such past due child support and any balance shall become the property of the state and shall be deposited in the General Fund; provided any person who has a bona fide mortgage, assignment of lease or rent, lien or security interest in such property shall have the same right to the proceeds as he had in the property prior to the sale.

(e) If such seized property is adjudicated a nuisance or if the court finds that such property shall be forfeited or is contraband other than a controlled drug, a controlled substance or drug paraphernalia as defined in subdivision (8), (9) or (20) of section 21a-240, the court shall order that such property be destroyed or be given to a charitable or educational institution or to a governmental agency or institution, except that (1) if such property is money, the court shall order that it be remitted to payment of past-due child support if the owner of such property is subject to a support order, as defined in section 52-362, and payment of court ordered restitution, pursuant to C.G.S. § 53a-28(c), if the owner of such property is not subject to a support order or there is a balance after payment of such past due child support and any balance shall be remitted to the state and be deposited in the General Fund, or (2) if such property is a valuable prize, the court shall order that it be disposed of by public auction or private sale in which case the proceeds shall be remitted to payment of past-due child support if the owner of such property is subject to a support order, as defined in section 52-362, and payment of court ordered restitution, pursuant to C.G.S. § 53a-28(c), if the owner of such property is not subject to a support order or there is a balance after payment of such past due child support and any balance shall become the property of the state and shall be deposited in the General Fund; provided any person who has a bona fide mortgage, assignment of lease or rent, lien or security interest in such property shall have the same right to the proceeds as he had in the property prior to sale.

Sec. 2. Section 54-36c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) If there is no criminal action, property seized prior to October 1, 1974, held by law enforcement agencies in connection with a crime, which has not been claimed by the owner, except property held for disposition pursuant to section 54-33g, shall, upon notification by the police authority, be disposed of on the order of the examiner of seized property if [he] the examiner of seized property obtains the consent of the prosecuting official of such court. [Property,]

(b) If there is no criminal action, property seized on or after October 1, 1974, in connection with a crime for which an inventory need not be filed and held by law enforcement agencies for six months and which has not been claimed by the owner, shall be disposed of by an order of the examiner of seized property if [he] the examiner

of seized property obtains the consent of the prosecuting official of such court. In disposing of property pursuant to this section, the examiner of seized property may order that such property be destroyed or be given to a charitable or educational institution or to a governmental agency or institution; provided, (1) if such property is money, [he] the examiner of seized property shall order that it be remitted to payment of past-due child support if the owner of such property is subject to a support order, as defined in section 52-362, and that any balance be remitted to the state and be deposited in the General Fund, or (2) [ ] if such property is a valuable prize, [he] the examiner of seized property shall order that it be disposed of by public auction or private sale, in which case the proceeds shall become the property of the state and shall be remitted to payment of past-due child support if the owner of such property is subject to a support order, as defined in section 52-362, and any balance shall be deposited in the General Fund; provided any person who has a bona fide mortgage, assignment of lease or rent, lien or security interest in such property shall have the same right to the proceeds as he had in the property prior to sale.

Sec. 3. Subsection (f) of section 54-36h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(f) The proceeds from any sale of property under subsection (e) of this section and any moneys forfeited under this section shall be applied: (1) To payment of the balance due on any lien preserved by the court in the forfeiture proceedings; (2) to payment of any costs incurred for the storage, maintenance, security and forfeiture of such property; [and] (3) to payment of court costs; and (4) to payment of past-due child support if the owner of such property is subject to a support order, as defined in section 52-362, and payment of court ordered restitution, pursuant to C.G.S. § 53a-28(c), if the owner of such property is not subject to a support order or there is a balance after payment of such past due child support. The balance, if any, shall be deposited in the drug assets forfeiture revolving account established under section 54-36i.

Sec. 4. Subsection (f) of section 54-36o of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(f) The proceeds from any sale of property under subsection (e) of this section shall be applied: (1) To payment of the balance due on any lien preserved by the court in the forfeiture proceedings; (2) to payment of any costs incurred for the storage, maintenance, security and forfeiture of such property; [and] (3) to payment of court costs; and (4) to payment of past-due child support if the owner of such property is subject to a support order, as defined in section 52-362, and payment of court ordered restitution, pursuant to C.G.S. § 53a-28(c), if the owner of such property is not subject to a support order or there is a balance after payment of such past due child support. The balance, if any, shall be deposited in the privacy protection guaranty and enforcement account established under section 42-472a.

Sec. 5. Subsection (f) of section 54-36p of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(f) The proceeds from any sale of property under subsection (e) of this section and any moneys forfeited under this section shall be applied: (1) To payment of the balance due on any lien preserved by the court in the forfeiture proceedings; (2) to payment of any costs incurred for the storage, maintenance, security and forfeiture of any such property; [and] (3) to payment of court costs; and (4) to payment of past-due child support if the owner of such property is subject to a support order, as defined in section 52-362 , and payment of court ordered restitution, pursuant to C.G.S. § 53a-28(c), if the owner of such property is not subject to a support order or there is a balance after payment of such past due child support. The balance, if any, shall be deposited in the General Fund.

**ORDER OF RESTITUTION**

JD-CR-130 New 10-01  
P.A. 01-211

**STATE OF CONNECTICUT  
SUPERIOR COURT  
www.jud.state.ct.us**

**INSTRUCTIONS TO CLERK**

1. Prepare one form for each victim.
2. Retain original in court file.
3. Provide defendant with a copy of the order at sentencing.
4. Provide the victim with a certified copy by certified mail.
5. Provide a copy to the CSSD IAR Unit - OR, if restitution is in addition to Special Parole, attach to mittimus for the Board of Parole.

COURT <input type="checkbox"/> G.A. No. _____ <input type="checkbox"/> J.D. of _____	AT (Town) _____	DOCKET NO. _____
NAME AND ADDRESS OF DEFENDANT _____		

NAME OF VICTIM (Omit if victim of sexual assault, risk of injury to a minor, or otherwise confidential) \_\_\_\_\_

**ORDER OF THE COURT**

You have been convicted of an offense that resulted in injury to another person or damage to or loss of property. As part of your sentence, you are hereby ordered to make financial restitution, payable in the following amounts:

The restitution amount(s) are as follows:

- \$ \_\_\_\_\_ Amount of damages for injury or loss of property
- \$ \_\_\_\_\_ Actual expenses incurred for treatment for injury
- \$ \_\_\_\_\_ Lost wages resulting from the injury
- \$ \_\_\_\_\_ Costs of counseling related to the offense
- \$ \_\_\_\_\_ Other: \_\_\_\_\_

\$ \_\_\_\_\_ **TOTAL AMOUNT DUE**, to be paid in installment(s) of: \$ \_\_\_\_\_ per \_\_\_\_\_

To be paid in full by: \_\_\_\_\_

Payments are to be made:

- As directed by the Court Support Services Division of the Judicial Branch. Method of payment must be Certified Check or Money Order (no cash or personal checks)
- As directed by the Board of Parole.
- On a joint and several basis with: \_\_\_\_\_
- Other: \_\_\_\_\_

<b>BY ORDER OF THE COURT</b>	SIGNED (Judge, Asst. Clerk) _____	DATE SIGNED _____	<i>For Court Use Only</i>
<b>CERTIFICATION</b>			
I hereby certify that the foregoing is a true copy of the order of restitution in the herein named cause, as on file and of record appears. In witness whereof, I have hereunto set my hand and the seal of said court on:			
DATE _____	SIGNED (Judge, Asst. Clerk) _____		

*This order is enforceable as a judgment in a civil action as provided in C.G.S. §53a-28a.*