



House of Representatives

General Assembly

File No. 586

February Session, 2018

Substitute House Bill No. 5471

House of Representatives, April 19, 2018

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING VICTIM'S RIGHTS AND RESTITUTION.

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

1 Section 1. Subsection (c) of section 53a-28 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2018*):

4 (c) In addition to any sentence imposed pursuant to subsection (b)
5 of this section, the court shall inquire on the record whether there are
6 any requests by a victim for restitution, and if (1) a person is convicted
7 of an offense that resulted in injury to another person or damage to or
8 loss of property, (2) the victim requests financial restitution, and (3) the
9 court finds that the victim has suffered injury or damage to or loss of
10 property as a result of such offense, the court shall order the offender
11 to make financial restitution under terms that it determines are
12 appropriate. In determining the appropriate terms of financial
13 restitution, the court shall consider: (A) The financial resources of the
14 offender and the burden restitution will place on other obligations of
15 the offender; (B) the offender's ability to pay based on installments or

16 other conditions; (C) the rehabilitative effect on the offender of the
 17 payment of restitution and the method of payment; and (D) other
 18 circumstances, including the financial burden and impact on the
 19 victim, that the court determines make the terms of restitution
 20 appropriate. If the court determines that the current financial resources
 21 of the offender or the offender's current ability to pay based on
 22 installments or other conditions are such that no appropriate terms of
 23 restitution can be determined, the court may forego setting such terms.
 24 The court shall articulate its findings on the record with respect to each
 25 of the factors set forth in subparagraphs (A) to (D), inclusive, of this
 26 subsection. Restitution ordered by the court pursuant to this
 27 subsection shall be based on easily ascertainable damages for injury or
 28 loss of property, actual expenses incurred for treatment for injury to
 29 persons and lost wages resulting from injury. Restitution shall not
 30 include reimbursement for damages for mental anguish, pain and
 31 suffering or other intangible losses, but may include the costs of
 32 counseling reasonably related to the offense. Restitution ordered by
 33 the court pursuant to this subsection shall be imposed or directed by a
 34 written order of the court on a form prescribed by the Chief Court
 35 Administrator containing the amount of damages for injury or loss of
 36 property, actual expenses incurred for treatment for injury to persons
 37 and lost wages resulting from injury as ascertained by the court. The
 38 order of the court shall direct that a certified copy of the completed
 39 form containing the written order be delivered by certified mail to
 40 [the] each victim and contain an advisement to the victim that the
 41 order is enforceable as a judgment in a civil action as provided in
 42 section 53a-28a. The court shall retain the original of each form
 43 containing a written order of restitution as part of such offender's court
 44 record.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2018	53a-28(c)

Statement of Legislative Commissioners:

In Section 1(c), "offender's court file" was changed to "offender's court record" for consistency with the general statutes.

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes a change to victim statements in criminal sentencing and does not result in a fiscal impact to the state or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5471*****AN ACT CONCERNING VICTIM'S RIGHTS AND RESTITUTION.*****SUMMARY**

This bill requires the court, when sentencing an individual who was convicted of a criminal offense, to inquire on the record whether there are any requests from victims for restitution. Existing law, unchanged by the bill, requires the court to order an offender to make financial restitution, under terms that it determines are appropriate, if the:

1. individual was convicted of an offense that resulted in injury to another person or property damage or loss;
2. victim requests financial restitution; and
3. court finds that the victim suffered injury or property damage or loss as a result of the offense.

Under current law, any such restitution must be imposed or directed by a written court order. The bill explicitly requires that the order be written on a form the chief court administrator prescribes. It also (1) requires the court to retain each original form containing a written restitution order as part of the offender's court file and (2) makes a conforming change.

EFFECTIVE DATE: October 1, 2018

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 41 Nay 0 (04/04/2018)