

SENATE BILL 1059

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By: **Senators Lee, Hough, Sydnor, and West**
Introduced and read first time: February 24, 2020
Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Restitution – Trauma-Informed Restorative Justice**

3 FOR the purpose of requiring the Comptroller to distribute certain unclaimed money
4 related to abandoned property in a certain manner; requiring that adherence to the
5 provisions of a certain victim and offender restorative justice agreement by a certain
6 offender be a condition of mandatory supervision; requiring that adherence to the
7 provisions of a certain victim and offender restorative justice agreement by a certain
8 offender be a condition of parole; providing that a prosecuting attorney has certain
9 discretion to recommend restorative justice intervention under certain
10 circumstances; authorizing a court to enter a judgment of restitution against a
11 defendant or child respondent if restitution was determined by arbitration and
12 incorporated by an order of the court; authorizing a court to enter a judgment of
13 restitution against the parent of a defendant or child respondent if restitution was
14 determined by arbitration and incorporated by an order of the court; requiring a
15 restitution obligor to make certain payments to the Department of Public Safety and
16 Correctional Services or the Department of Juvenile Services under certain
17 circumstances; providing that the accrual of interest for nonpayment of restitution
18 occur in accordance with a victim and offender restorative justice agreement under
19 certain circumstances; authorizing a court to enter a judgment of restitution
20 regarding certain terms of a victim and offender restorative justice agreement;
21 requiring the State Board of Victim Services to provide certain information to a
22 victim and a victim's representative; requiring the Victim Services Unit of the
23 Governor's Office of Crime Control and Prevention to adopt certain regulations
24 relating to the certification and administration of victim-offender specialists;
25 establishing the Restorative Justice Intervention Revolving Fund as a special,
26 nonlapsing fund; specifying the purpose of the Fund; requiring the Victim Services
27 Unit to administer the Fund; requiring the State Treasurer to hold the Fund and the
28 Comptroller to account for the Fund; specifying the contents of the Fund; specifying
29 the purpose for which the Fund may be used; providing for the investment of money
30 in and expenditures from the Fund; exempting the Fund from a certain provision of
31 law requiring interest earnings on State money to accrue to the General Fund of the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



State; providing that the Fund is subject to audit by the Office of Legislative Audits; providing for the purpose and construction of certain provisions of law; authorizing a prosecuting attorney to refer a victim and an offender to a victim–offender legal specialist for a certain purpose; requiring the appointment of a victim–offender legal specialist under certain circumstances; requiring a court to order an offender or the parent of an offender to pay into a certain fund for the costs of a victim–offender legal specialist subject to certain exceptions; providing that the agreement by an offender to seek a restorative justice solution constitutes a waiver of certain claims; prohibiting the use of certain conduct or statements as evidence; requiring a victim–offender legal specialist to disclose certain information to a victim and an offender; authorizing a victim–offender legal specialist to arbitrate the amount of restitution owed by an offender on agreement by a victim and an offender; providing that the provisions of a victim and offender restorative justice agreement are not subject to court modification under certain circumstances; authorizing a court to incorporate but not merge the terms of a victim and offender restorative justice agreement in an order of the court without making a finding of fact or legal determination; authorizing a court to prohibit the disclosure of the terms of a victim and offender restorative justice agreement under certain circumstances; authorizing a prosecuting attorney, counsel for an offender, counsel for a victim, and the court to provide a victim–offender legal specialist with certain information; requiring a clerk of the court to provide a victim–offender legal specialist with certain access to a case file; authorizing a victim–offender legal specialist to request certain materials; authorizing the Victim Services Unit to limit the number of hours for which a victim–offender legal specialist may be compensated without prior approval; authorizing a court to grant additional time for restorative justice efforts under certain circumstances; authorizing a court to order an offender to comply with the terms of a victim and offender restorative justice agreement regardless of the dismissal of the case or the case being placed on the stet docket; authorizing a court to incorporate but not merge a victim and offender restorative justice agreement as an order of the court; requiring a court to incorporate but not merge the terms of a restorative justice agreement regarding restitution if there was an agreement regarding arbitration; requiring a clerk of the court to provide a copy of a victim and offender restorative justice agreement to an entity that will have custody over an offender; requiring that compliance with the terms of a victim and offender restorative justice agreement by an offender be considered an additional condition of release for the offender; defining certain terms; providing for the application of this Act; and generally relating to restorative justice intervention.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 17–317(a)(3)
Annotated Code of Maryland
(2013 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 4–307, 7–503(b), and 7–701(a)

1 Annotated Code of Maryland
2 (2017 Replacement Volume and 2019 Supplement)

3 BY repealing
4 Article – Criminal Law
5 Section 3–207
6 Annotated Code of Maryland
7 (2012 Replacement Volume and 2019 Supplement)

8 BY repealing and reenacting, without amendments,
9 Article – Criminal Procedure
10 Section 11–101(a) and 11–601(a)
11 Annotated Code of Maryland
12 (2018 Replacement Volume and 2019 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Procedure
15 Section 11–101(f), 11–104(e) through (i), 11–601(e), (g), and (h), 11–603(a),
16 11–604(a), 11–607(b), 11–616(e), 11–619, 11–914(9), and 11–1105(a)
17 Annotated Code of Maryland
18 (2018 Replacement Volume and 2019 Supplement)

19 BY adding to
20 Article – Criminal Procedure
21 Section 11–101(f) through (h), 11–104(e), and 11–1106; and 11–1201 through
22 11–1205 to be under the new subtitle “Subtitle 12. Restorative Justice
23 Intervention”
24 Annotated Code of Maryland
25 (2018 Replacement Volume and 2019 Supplement)

26 BY repealing and reenacting, without amendments,
27 Article – State Finance and Procurement
28 Section 6–226(a)(2)(i)
29 Annotated Code of Maryland
30 (2015 Replacement Volume and 2019 Supplement)

31 BY repealing and reenacting, with amendments,
32 Article – State Finance and Procurement
33 Section 6–226(a)(2)(ii)121. and 122.
34 Annotated Code of Maryland
35 (2015 Replacement Volume and 2019 Supplement)

36 BY adding to
37 Article – State Finance and Procurement
38 Section 6–226(a)(2)(ii)123.
39 Annotated Code of Maryland
40 (2015 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Commercial Law

17–317.

(a) (3) (i) Subject to subparagraph (ii) of this paragraph, the Administrator shall distribute all unclaimed money from [judgments]:

1. JUDGMENTS of restitution under Title 11, Subtitle 6 of the Criminal Procedure Article to the State Victims of Crime Fund established under § 11–916 of the Criminal Procedure Article to assist victims of crimes and delinquent acts to protect the victims' rights as provided by law; **AND**

2. MONEY COLLECTED UNDER TITLE 10 OF THE FAMILY LAW ARTICLE TO THE RESTORATIVE JUSTICE INTERVENTION REVOLVING FUND UNDER § 11–1106 OF THE CRIMINAL PROCEDURE ARTICLE TO PROVIDE FOR RESTORATIVE JUSTICE EFFORTS.

(ii) If a victim entitled to restitution that has been treated as abandoned property under § 11–614 of the Criminal Procedure Article **OR AN INDIVIDUAL WHO WAS ENTITLED TO FUNDS UNDER TITLE 10 OF THE FAMILY LAW ARTICLE** is located after the money has been distributed under this paragraph, the Administrator shall reduce the next distribution to the State Victims of Crime Fund **OR THE RESTORATIVE JUSTICE INTERVENTION REVOLVING FUND UNDER § 11–1106 OF THE CRIMINAL PROCEDURE ARTICLE** by the amount recovered by the victim **OR INDIVIDUAL**.

Article – Correctional Services

4–307.

If a court has ordered that an eligible person make restitution **OR HAS INCORPORATED A VICTIM AND OFFENDER RESTORATIVE JUSTICE AGREEMENT UNDER TITLE 11, SUBTITLE 12 OF THE CRIMINAL PROCEDURE ARTICLE** as part of a sentence or as a condition of probation, the Board of Review shall require the eligible person to make restitution payments **OR TO FOLLOW THE TERMS OF THE AGREEMENT** while on parole or work release as a condition of parole or work release.

7–503.

(b) If a court previously ordered an individual to pay restitution **OR HAS INCORPORATED A VICTIM AND OFFENDER RESTORATIVE JUSTICE AGREEMENT UNDER TITLE 11, SUBTITLE 12 OF THE CRIMINAL PROCEDURE ARTICLE** as a part of

a sentence or as a condition of probation, the individual shall be required to make restitution payments **OR TO FOLLOW THE TERMS OF THE AGREEMENT** while under mandatory supervision as a condition of mandatory supervision.

7–701.

(a) If the Commission grants parole to an individual whom a court has ordered to make restitution **OR HAS INCORPORATED A VICTIM AND OFFENDER RESTORATIVE JUSTICE AGREEMENT UNDER TITLE 11, SUBTITLE 12 OF THE CRIMINAL PROCEDURE ARTICLE** as part of a sentence or as a condition of probation, the Commission shall require the individual to make restitution payments **OR TO FOLLOW THE TERMS OF THE AGREEMENT** while on parole as a condition of parole.

Article – Criminal Law

[3–207.

(a) On a pretrial motion of the State, a court may dismiss a charge of assault if:

(1) the victim and the defendant agree to the dismissal; and

(2) the court considers the dismissal proper.

(b) The defendant shall pay the costs that would have been incurred if the defendant had been found guilty.]

Article – Criminal Procedure

11–101.

(a) In this title the following words have the meanings indicated.

(F) **“TRAUMA-INFORMED” MEANS A METHODOLOGY:**

(1) **BASED ON AN UNDERSTANDING OF AND A RESPONSIVENESS TO THE IMPACT OF TRAUMA ON AN INDIVIDUAL;**

(2) **THAT EMPHASIZES THE PHYSICAL, PSYCHOLOGICAL, AND EMOTIONAL SAFETY OF PARTIES; AND**

(3) **THAT CREATES AN OPPORTUNITY FOR AN INDIVIDUAL TO REBUILD A SENSE OF CONTROL AND EMPOWERMENT.**

(G) **“VICTIM AND OFFENDER RESTORATIVE JUSTICE AGREEMENT” MEANS A VOLUNTARY AGREEMENT BETWEEN A VICTIM AND A PERPETRATOR OF A CRIME OR**

DELINQUENT ACT.

(H) “VICTIM–OFFENDER LEGAL SPECIALIST” MEANS AN INDIVIDUAL CERTIFIED BY THE VICTIM SERVICES UNIT OF THE GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION UNDER SUBTITLE 12 OF THIS TITLE WHO IS A MEMBER OF THE MARYLAND STATE BAR WITH LEGAL KNOWLEDGE AND EXTENSIVE PROFESSIONAL EXPERIENCE PERTAINING TO:

(1) CRIMINAL JUSTICE AND JUVENILE JUSTICE;

(2) OFFENDER RIGHTS, VICTIMS’ RIGHTS, AND TRAUMA–INFORMED PRACTICES;

(3) RESTITUTION DAMAGES CALCULATIONS; AND

(4) SENTENCING, PAROLE, MANDATORY RELEASE, ADMINISTRATIVE RELEASE, AND PROBATION.

[(f)](I) “Victim stay–away alert technology” means a system of electronic monitoring that is capable of notifying a victim if the defendant is at or near a location from which the defendant has been ordered by the court to stay away.

11–104.

(E) ON REQUEST OF THE DEFENDANT, OR ON THE INITIATIVE OF THE COURT OR THE PROSECUTING ATTORNEY, THE PROSECUTING ATTORNEY SHALL INFORM THE VICTIM OR THE VICTIM’S REPRESENTATIVE THAT THE PROSECUTING ATTORNEY HAS THE DISCRETION TO RECOMMEND A RESTORATIVE JUSTICE INTERVENTION UNDER SUBTITLE 12 OF THIS TITLE.

[(e)](F) (1) A victim or victim’s representative may:

(i) file a completed notification request form with the prosecuting attorney; or

(ii) follow the MDEC system protocol to request notice.

(2) (i) If the jurisdiction has not implemented the MDEC system, the prosecuting attorney shall send a copy of the completed notification request form to the clerk of the circuit court or juvenile court.

(ii) If the jurisdiction has implemented the MDEC system and the victim or victim’s representative has filed a completed notification request form, the prosecuting attorney shall electronically file the form with the clerk of the circuit court or juvenile court in the MDEC system.

(3) By filing a completed notification request form or completing the MDEC system protocol, a victim or victim's representative complies with Article 47 of the Maryland Declaration of Rights and each provision of the Code that requires a victim or victim's representative to request notice.

(4) To keep the address and electronic mail address of a victim or victim's representative confidential, the victim or victim's representative shall:

(i) designate in the notification request form a person who has agreed to receive notice for the victim or victim's representative; or

(ii) request as part of the MDEC system protocol, without filing a motion to seal, that the address and electronic mail address remain confidential and available, as necessary to only:

1. the court;
2. the prosecuting attorney;
3. the Department of Public Safety and Correctional Services;
4. the Department of Juvenile Services;
5. the attorney of the victim or victim's representative;
6. the State's Victim Information and Notification Everyday vendor; and
7. a commitment unit that a court orders to retain custody of an individual.

[(f)] (G) (1) Unless provided by the MDEC system, the prosecuting attorney shall send a victim or victim's representative prior notice of each court proceeding in the case, of the terms of any plea agreement, and of the right of the victim or victim's representative to submit a victim impact statement to the court under § 11–402 of this title if:

(i) prior notice is practicable; and

(ii) the victim or victim's representative has filed a notification request form or followed the MDEC system protocol under subsection **[(e)](F)** of this section.

(2) (i) If the case is in a jurisdiction in which the office of the clerk of the circuit court or juvenile court has an automated filing system, the prosecuting attorney

1 may ask the clerk to send the notice required by paragraph (1) of this subsection.

2 (ii) If the case is in a jurisdiction that has implemented the MDEC
3 system, the victim may follow the MDEC system protocol to receive notice by electronic
4 mail, to notify the prosecuting attorney, and to request additional notice available through
5 the State's Victim Information and Notification Everyday vendor.

6 (3) As soon after a proceeding as practicable, the prosecuting attorney shall
7 tell the victim or victim's representative of the terms of any plea agreement, judicial action,
8 and proceeding that affects the interests of the victim or victim's representative, including
9 a bail hearing, change in the defendant's pretrial release order, dismissal, nolle prosequi,
10 stetting of charges, trial, disposition, and postsentencing court proceeding if:

11 (i) the victim or victim's representative has filed a notification
12 request form or followed the MDEC system protocol under subsection [(e)](F) of this section
13 and prior notice to the victim or victim's representative is not practicable; or

14 (ii) the victim or victim's representative is not present at the
15 proceeding.

16 (4) Whether or not the victim or victim's representative has filed a
17 notification request form or followed the MDEC system protocol under subsection [(e)](F)
18 of this section, the prosecuting attorney may give the victim or victim's representative
19 information about the status of the case if the victim or victim's representative asks for the
20 information.

21 [(g)] (H) If a victim or victim's representative has filed a notification request
22 form or followed the MDEC system protocol under subsection [(e)](F) of this section, the
23 clerk of the circuit court or juvenile court:

24 (1) shall include a copy of the form with any commitment order or
25 probation order that is passed or electronically transmit the form or the registration
26 information for the victim or the victim's representative through the MDEC system; and

27 (2) if an appeal is filed, shall send a copy of the form or electronically
28 transmit the form or the registration information for the victim or the victim's
29 representative through the MDEC system to the Attorney General and the court to which
30 the case has been appealed.

31 [(h)] (I) This section does not prohibit a victim or victim's representative from
32 filing a notification request form with a unit to which a defendant or child respondent has
33 been committed.

34 [(i)] (J) (1) After filing a notification request form under subsection [(e)] (F)
35 of this section, a victim or victim's representative may discontinue further notices by filing
36 a written request with:

(i) the prosecuting attorney, if the case is still in a circuit court or juvenile court; or

(ii) the unit to which the defendant or child respondent has been committed, if a commitment order has been issued in the case.

(2) After following the MDEC system protocol for electronic notices, a victim or victim's representative may discontinue further notices by following the MDEC system protocol to terminate notice.

11-601.

(a) In Part I of this subtitle the following words have the meanings indicated.

(e) "Defendant" means a person:

(1) who has received probation before judgment;

(2) who has been found guilty of a crime, even if the defendant has been found not criminally responsible; [or]

(3) whose plea of nolo contendere to a crime has been accepted by the court;

OR

(4) WHO IS AN OFFENDER WHO HAS AGREED TO PAY RESTITUTION UNDER SUBTITLE 12 OF THIS TITLE.

(g) **(1)** "Judgment of restitution" means a direct order for payment of restitution or an order for payment of restitution that is a condition of probation in an order of probation.

(2) "JUDGMENT OF RESTITUTION" INCLUDES RESTITUTION AS PART OF A VICTIM AND OFFENDER RESTORATIVE JUSTICE AGREEMENT.

(h) "Liable parent" means a parent:

(1) whose child has committed a crime or delinquent act; and

(2) **(I)** who has been ordered to pay restitution under § 11-604 of this subtitle; **OR**

(II) WHO HAS AGREED TO PAY RESTITUTION UNDER SUBTITLE 12 OF THIS TITLE.

11-603.

(a) A court may enter a judgment of restitution that orders a defendant or child respondent to make restitution in addition to any other penalty for the commission of a crime or delinquent act, if:

(1) as a direct result of the crime or delinquent act, property of the victim was stolen, damaged, destroyed, converted, or unlawfully obtained, or its value substantially decreased;

(2) as a direct result of the crime or delinquent act, the victim suffered:

(i) actual medical, dental, hospital, counseling, funeral, or burial expenses or losses;

(ii) direct out-of-pocket loss;

(iii) loss of earnings; or

(iv) expenses incurred with rehabilitation;

(3) the victim incurred medical expenses that were paid by the Maryland Department of Health or any other governmental unit;

(4) a governmental unit incurred expenses in removing, towing, transporting, preserving, storing, selling, or destroying an abandoned vehicle as defined in § 25–201 of the Transportation Article;

(5) the Criminal Injuries Compensation Board paid benefits to a victim;
[or]

(6) the Maryland Department of Health or other governmental unit paid expenses incurred under Subtitle 1, Part II of this title; **OR**

(7) RESTITUTION WAS:

(I) DETERMINED BY ARBITRATION AS PART OF A VICTIM AND OFFENDER RESTORATIVE JUSTICE AGREEMENT; OR

(II) INCORPORATED BY THE COURT AS PART OF AN ORDER OF THE COURT.

11–604.

(a) **(1)** Subject to subsection (b) of this section and notwithstanding any other law, if a child is the defendant or child respondent, the court may order the child, the child's parent, or both to pay restitution.

1 **(2) A COURT MAY ENTER A JUDGMENT OF RESTITUTION THAT**
2 **ORDERS A CHILD DEFENDANT OR CHILD RESPONDENT TO PAY RESTITUTION, IF**
3 **RESTITUTION WAS:**

4 **(I) DETERMINED BY ARBITRATION AS PART OF A VICTIM AND**
5 **OFFENDER RESTORATIVE JUSTICE AGREEMENT; OR**

6 **(II) INCORPORATED BY THE COURT AS PART OF AN ORDER OF**
7 **THE COURT.**

8 11-607.

9 (b) (1) The restitution obligor shall make restitution **PAYMENTS** to the
10 Department or the Department of Juvenile Services under the terms and conditions of the
11 judgment of restitution:

12 **(I) IF THE COURT ISSUED A COMMITMENT OR PLACED THE**
13 **DEFENDANT OR RESPONDENT ON PROBATION; OR**

14 **(II) IF RESTITUTION IS OTHERWISE ORDERED, UNLESS THE**
15 **VICTIM OR THE VICTIM'S REPRESENTATIVE AND THE DEFENDANT BOTH AGREE**
16 **THAT RESTITUTION PAYMENTS WILL OCCUR IN AN ALTERNATIVE MANNER.**

17 (2) The Department or the Department of Juvenile Services:

18 (i) shall keep records of payments or return of property in
19 satisfaction of the judgment of restitution;

20 (ii) shall forward property or payments in accordance with the
21 judgment of restitution and Part I of this subtitle to the person or governmental unit
22 specified in the judgment of restitution; and

23 (iii) may require the restitution obligor to pay additional fees not
24 exceeding 2% of the amount of the judgment of restitution to pay for the administrative
25 costs of collecting payments or property.

26 11-616.

27 (e) (1) Restitution is overdue if the restitution or a restitution payment is not
28 paid:

29 (i) by the date that the court orders; or

30 (ii) if no date is ordered, by the later of:

1 1. the date the Division or the Department of Juvenile
2 Services directs the restitution obligor to pay restitution or make a restitution payment; or

3 2. 30 days after the court enters a judgment of restitution.

4 (2) If restitution is overdue, the amount of the arrearage is the amount of
5 restitution ordered and any interest allowed by law, minus any amount previously paid or
6 received under the judgment of restitution.

7 **(3) IF THERE IS A VICTIM AND OFFENDER RESTORATIVE JUSTICE**
8 **AGREEMENT IN PLACE THAT PROVIDES FOR THE ACCRUAL OF INTEREST, INTEREST**
9 **SHALL ACCRUE AS PROVIDED BY THE AGREEMENT.**

10 **(4) IF RESTITUTION WAS DETERMINED THROUGH ARBITRATION,**
11 **INTEREST SHALL ACCRUE AT THE LEGAL RATE.**

12 11-619.

13 (a) Subject to subsection (b) of this section, any order of restitution made by a
14 court shall be governed by the provisions of this subtitle.

15 (b) This subtitle may not be construed to limit the authority of a court to direct a
16 defendant or a child found to have committed a delinquent act to make restitution or to
17 perform certain services, as specified by the court, for the victim as an alternative means
18 of restitution.

19 **(C) A COURT HAS THE AUTHORITY AT ANY TIME TO ENTER A JUDGMENT OF**
20 **RESTITUTION OR TO ISSUE AN ORDER REGARDING ANY OTHER TERMS OF A VICTIM**
21 **AND OFFENDER RESTORATIVE JUSTICE AGREEMENT.**

22 11-914.

23 Subject to the authority of the Executive Director, the Board shall:

24 (9) develop pamphlets to notify victims and victim's representatives of the
25 rights, services, and procedures provided under Article 47 of the Maryland Declaration of
26 Rights or State law, how to request information regarding an unsolved case, [and] how to
27 request that an offender be placed on electronic monitoring or electronic monitoring with
28 victim stay-away alert technology, **AND HOW TO REQUEST A RESTORATIVE JUSTICE**
29 **INTERVENTION UNDER SUBTITLE 12 OF THIS TITLE**, including:

30 (i) one pamphlet relating to the MDEC system protocol registration
31 process and the time before and after the filing of a charging document other than an
32 indictment or information in circuit court; and

(ii) a second pamphlet relating to the time after the filing of an indictment or information in circuit court; and

11-1105.

(a) The Unit shall:

(1) monitor and provide guidance to the Secretary on the adoption of regulations establishing minimum mandatory standards for State and local correctional facilities regarding victim notification, restitution, and administrative record keeping;

(2) encourage the use of earnings withholding orders to collect restitution;

(3) coordinate with the Central Collection Unit to improve restitution collection;

(4) coordinate with the Division of Parole and Probation to modernize and improve collections and collaborate on communicating with parole and probation agents on their role in restitution collection;

(5) coordinate with the Division of Parole and Probation and the Central Collection Unit on ways to expedite the referral of cases to the Central Collection Unit;

(6) develop programs to be presented to the Maryland State's Attorneys' Association to emphasize statutory obligations regarding restitution;

(7) promote notification to victims; [and]

(8) examine the current remedies available to enforce restitution orders to determine whether the remedies are being effectively used and make recommendations regarding the need for additional remedies; AND

(9) ADOPT REGULATIONS FOR THE ADMINISTRATION OF VICTIM-OFFENDER LEGAL SPECIALISTS UNDER SUBTITLE 12 OF THIS TITLE:

(I) ESTABLISHING A CERTIFICATION FOR AN INDIVIDUAL TO SERVE AS A VICTIM-OFFENDER LEGAL SPECIALIST;

(II) ESTABLISHING AN HOURLY RATE FOR A VICTIM-OFFENDER LEGAL SPECIALIST IN ACCORDANCE WITH MARYLAND RULE 19-301.5(A);

(III) MAINTAINING AND PERIODICALLY UPDATING A LIST OF ELIGIBLE VICTIM-OFFENDER LEGAL SPECIALISTS AND PROVIDING THE LIST:

1. ON THE WEBSITE OF THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION;

2. TO THE STATE COURT ADMINISTRATOR;
3. TO THE STATE'S ATTORNEYS' ASSOCIATION;
4. TO THE OFFICE OF THE PUBLIC DEFENDER; AND
5. TO THE MARYLAND CRIMINAL DEFENSE ATTORNEYS' ASSOCIATION;

(IV) ESTABLISHING A PROCESS, BOTH PHYSICAL AND ONLINE, FOR COMPENSATION AND FOR THE REIMBURSEMENT OF EXPENSES UNDER THE STANDARD TRAVEL GUIDELINES AS PROVIDED IN THE STATE BUDGET; AND

(V) DEVELOPING A PROCESS TO MANAGE FUNDS FOR THE MANAGEMENT AND ADMINISTRATION OF VICTIM-OFFENDER LEGAL SPECIALISTS AS NECESSARY.

11-1106.

(A) IN THIS SECTION, "FUND" MEANS THE RESTORATIVE JUSTICE INTERVENTION REVOLVING FUND.

(B) THERE IS A RESTORATIVE JUSTICE INTERVENTION REVOLVING FUND.

(C) THE PURPOSE OF THE FUND IS TO CARRY OUT THE PROVISIONS OF § 11-1205 OF THIS TITLE.

(D) THE UNIT SHALL ADMINISTER THE FUND.

(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) THE FUND CONSISTS OF:

(1) REVENUE DISTRIBUTED TO THE FUND FROM RESTITUTION PAYMENTS BY AN OFFENDER UNDER § 11-1203 OF THIS TITLE;

(2) INVESTMENT EARNINGS OR FEDERAL FUNDS RECEIVED BY THE STATE FOR THE PURPOSES OF THIS SUBTITLE;

1 **(3) INTEREST EARNINGS; AND**

2 **(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR**
3 **THE BENEFIT OF THE FUND.**

4 **(G) THE FUND MAY BE USED ONLY FOR COSTS AND ADMINISTRATIVE**
5 **EXPENSES ASSOCIATED WITH VICTIM-OFFENDER LEGAL SPECIALISTS UNDER**
6 **SUBTITLE 12 OF THIS TITLE.**

7 **(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND**
8 **IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

9 **(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO**
10 **THE FUND.**

11 **(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE**
12 **WITH THE STATE BUDGET.**

13 **(J) THE FUND IS SUBJECT TO AUDIT BY THE OFFICE OF LEGISLATIVE**
14 **AUDITS AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT ARTICLE.**

15 **SUBTITLE 12. RESTORATIVE JUSTICE INTERVENTION.**

16 **11-1201.**

17 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
18 **INDICATED.**

19 **(B) “DISMISSAL” MEANS:**

20 **(1) AN ORDER OF FINAL DISMISSAL IN A CASE; OR**

21 **(2) AN ORDER CONDITIONALLY DISMISSING A CASE ON THE**
22 **COMPLETION OF TERMS BY AN OFFENDER ACCORDING TO THE TERMS OF A VICTIM**
23 **AND OFFENDER RESTORATIVE JUSTICE AGREEMENT.**

24 **(C) “JUSTICE SYSTEM” MEANS THE CRIMINAL JUSTICE SYSTEM AND THE**
25 **JUVENILE JUSTICE SYSTEM.**

26 **(D) “OFFENDER” MEANS AN INDIVIDUAL:**

27 **(1) CHARGED WITH OR FOUND GUILTY OF A CRIME; OR**

(2) ALLEGED TO HAVE COMMITTED OR FOUND TO HAVE COMMITTED
A DELINQUENT ACT.

(E) "OFFENSE" MEANS:

(1) A CHARGE LISTED IN A CHARGING DOCUMENT IN A CRIMINAL
CASE; OR

(2) A CHARGE LISTED IN A PETITION ALLEGING A DELINQUENT ACT.

(F) (1) "VICTIM" INCLUDES A VICTIM'S REPRESENTATIVE AS DEFINED
UNDER § 11-401 OF THIS TITLE IF THE VICTIM IS DECEASED OR IS AN INDIVIDUAL
UNDER MENTAL, PHYSICAL, OR LEGAL DISABILITY.

(2) "VICTIM" DOES NOT INCLUDE THE OFFENDER OR AN INDIVIDUAL
WHO WILL ADVOCATE FOR THE POSITION OF AN OFFENDER.

11-1202.

(A) THE PURPOSES OF THIS SUBTITLE ARE:

(1) TO ADDRESS THE RATES OF INCARCERATION AND COMMITMENT
OF OFFENDERS;

(2) TO AMELIORATE THE HARMFUL EFFECTS OF OFFENSES ON A
VICTIM IN A MANNER THAT TREATS THE VICTIM WITH DIGNITY, RESPECT, AND
SENSITIVITY;

(3) TO REINFORCE THE FOLLOWING PRINCIPLES:

(I) THAT WHILE THE STATE IS A PARTY IN MATTERS OF THE
JUSTICE SYSTEM AND A VICTIM IS NOT A PARTY, A VICTIM HAS BEEN HARMED BY AN
OFFENSE AND THE VICTIM HAS PARTICIPATORY RIGHTS IN THE JUSTICE SYSTEM
UNDER THE CONSTITUTION AND LAWS OF THE STATE;

(II) THAT A VICTIM HAS A CRITICAL NEED FOR
ACKNOWLEDGMENT, INFORMATION, PRIVACY, SAFETY, RESTITUTION, AND
INVOLVEMENT IN MATTERS OF THE JUSTICE SYSTEM;

(III) THAT THERE IS A NEED TO CREATE MEANINGFUL CHANGE
IN AN OFFENDER AND THAT ALTERNATIVE OPTIONS ARE NEEDED TO IMPACT RATES
OF RECIDIVISM;

1 (IV) THAT THERE IS A NEED TO FOCUS ON THE HARM TO A VICTIM
2 AS WELL AS THE NEEDS OF AN OFFENDER AND OF AFFECTED COMMUNITIES USING
3 TRAUMA-INFORMED PRACTICES;

4 (V) THAT THERE IS A NEED FOR AN OFFENDER AND
5 COMMUNITIES TO ACKNOWLEDGE AND TO MAKE A VICTIM AS WHOLE AS POSSIBLE
6 TO MAKE RIGHT THE HARM THAT HAS OCCURRED TO THE VICTIM;

7 (VI) THAT DEVELOPING AN INCLUSIVE PROCESS THAT INVOLVES
8 VICTIMS AND OFFENDERS CREATES AN OPPORTUNITY FOR BETTER JUSTICE FOR
9 ALL; AND

10 (VII) THAT RESTORATIVE JUSTICE AS A PRACTICE AND AS A
11 POLICY SOLUTION IS UNIQUELY SITUATED TO ADDRESS ISSUES IN THE JUSTICE
12 SYSTEM INCLUDING BEHAVIORAL CHANGE IN OFFENDERS AND VICTIMS' RIGHTS;

13 (4) TO CREATE A VICTIM-CENTERED APPROACH OF RESTORATIVE
14 JUSTICE THAT SEEKS AND OBTAINS POSITIVE OUTCOMES FOR VICTIMS, OFFENDERS,
15 AND COMMUNITIES;

16 (5) TO DEVELOP A RESTORATIVE JUSTICE APPROACH AS AN OPTION
17 FOR APPROPRIATE MATTERS OF THE JUSTICE SYSTEM THAT ENSURES THE
18 BALANCING OF THE FOLLOWING OBJECTIVES:

19 (I) PUBLIC SAFETY AND THE PROTECTION OF THE COMMUNITY;

20 (II) ACCOUNTABILITY OF AN OFFENDER TO A VICTIM AND THE
21 COMMUNITY FOR AN OFFENSE COMMITTED;

22 (III) TO ACKNOWLEDGE THE HARM CAUSED TO A VICTIM AND TO
23 REPAIR THAT HARM TO THE EXTENT POSSIBLE; AND

24 (IV) TO HAVE AN OFFENDER UNDERSTAND THE HARM CAUSED
25 BY THE OFFENDER AS A MEANS OF PROVIDING MEANINGFUL CHANGE IN THE
26 BEHAVIOR OF THE OFFENDER TO PREVENT RECIDIVISM; AND

27 (6) TO DEVELOP A RESTORATIVE JUSTICE APPROACH AS AN OPTION
28 FOR APPROPRIATE JUSTICE SYSTEM MATTERS THAT ADDRESSES THE NEED OF A
29 VICTIM FOR ACKNOWLEDGMENT, INFORMATION, PRIVACY, SAFETY, RESTITUTION,
30 AND INVOLVEMENT IN MATTERS OF THE JUSTICE SYSTEM.

31 (B) THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO EFFECTUATE

1 THESE PURPOSES.

2 11-1203.

3 (A) (1) A PROSECUTING ATTORNEY MAY REFER A VICTIM AND AN
4 OFFENDER TO A VICTIM-OFFENDER LEGAL SPECIALIST TO FACILITATE A
5 POTENTIAL RESTORATIVE JUSTICE INTERVENTION AT ANY TIME DURING AN OPEN
6 CASE IN THE JUSTICE SYSTEM.

7 (2) IF A VICTIM AND AN OFFENDER AGREE TO SEEK RESTORATIVE
8 JUSTICE INTERVENTION TO RESOLVE ISSUES BETWEEN THE VICTIM AND THE
9 OFFENDER, ON REQUEST OF A PROSECUTING ATTORNEY:

10 (I) THE VICTIM SERVICES UNIT SHALL APPOINT A
11 VICTIM-OFFENDER LEGAL SPECIALIST WHO IS UNRELATED TO THE CASE; AND

12 (II) THE COURT SHALL ORDER THE OFFENDER OR, IN THE CASE
13 OF AN OFFENDER UNDER THE AGE OF 18 YEARS AT THE TIME OF THE OFFENSE, THE
14 OFFENDER'S PARENT OR LEGAL GUARDIAN TO PAY TO THE RESTORATIVE JUSTICE
15 INTERVENTION REVOLVING FUND, IN TOTAL OR IN INSTALLMENTS, FOR THE COSTS
16 OF THE VICTIM-OFFENDER LEGAL SPECIALIST AS DETERMINED BY THE VICTIM
17 SERVICES UNIT UNLESS:

18 1. THE VICTIM-OFFENDER LEGAL SPECIALIST HAS BEEN
19 PAID IN FULL; OR

20 2. THE COURT DETERMINES THAT PAYMENT IS NOT IN
21 THE INTERESTS OF JUSTICE AFTER CONSIDERING THE FOLLOWING FACTORS:

22 A. THE ABILITY OF THE OFFENDER OR THE OFFENDER'S
23 PARENT OR GUARDIAN TO PAY USING THE STANDARD CREATED FOR SPECIAL COSTS
24 UNDER MARYLAND RULE 4-353; AND

25 B. THE OBLIGATION OF THE OFFENDER TO MAKE
26 RESTITUTION PAYMENTS UNDER A VICTIM AND OFFENDER RESTORATIVE JUSTICE
27 AGREEMENT AND HOW THOSE PAYMENTS MAY AFFECT THE ABILITY OF THE
28 OFFENDER TO PAY.

29 (3) THE AGREEMENT BY AN OFFENDER TO SEEK A RESTORATIVE
30 JUSTICE SOLUTION CONSTITUTES AN AFFIRMATIVE WAIVER OF A CLAIM BASED ON
31 TIME LIMITATIONS THAT WORK IN FAVOR OF THE OFFENDER.

32 (4) CONDUCT OR STATEMENTS MADE IN NEGOTIATING A VICTIM AND

1 OFFENDER RESTORATIVE JUSTICE AGREEMENT ARE INADMISSIBLE AS EVIDENCE
2 FOR ANY PURPOSE IN ANY PROCEEDING AGAINST THE OFFENDER.

3 (B) (1) IF APPROPRIATE, THE VICTIM–OFFENDER LEGAL SPECIALIST
4 MAY BRING THE VICTIM AND THE OFFENDER TOGETHER, ENSURING THE SAFETY OF
5 THE VICTIM AND IN A MANNER CONSISTENT WITH TRAUMA–INFORMED PRACTICES
6 AND THE RESTORATIVE JUSTICE PURPOSES OF THIS SUBTITLE, IN AN ATTEMPT TO
7 FACILITATE A VICTIM AND OFFENDER RESTORATIVE JUSTICE AGREEMENT.

8 (2) THE VICTIM–OFFENDER LEGAL SPECIALIST:

9 (I) SHALL INFORM THE VICTIM AND THE OFFENDER:

10 1. THAT THE VICTIM–OFFENDER LEGAL SPECIALIST
11 REPRESENTS NEITHER THE VICTIM NOR THE OFFENDER;

12 2. THAT NO ATTORNEY–CLIENT RELATIONSHIP IS
13 CREATED BETWEEN THE VICTIM–OFFENDER LEGAL SPECIALIST AND EITHER PARTY
14 AND THAT INFORMATION GIVEN BY THE VICTIM–OFFENDER LEGAL SPECIALIST IS
15 NOT LEGAL ADVICE;

16 3. THAT A COURT OR A PROSECUTING ATTORNEY DOES
17 NOT HAVE TO ACCEPT A VICTIM AND OFFENDER RESTORATIVE JUSTICE AGREEMENT
18 EXCEPT WHERE IT WAS AGREED THAT ARBITRATION WOULD BE USED TO RESOLVE
19 ISSUES RELATED TO RESTITUTION;

20 4. THAT BEFORE SIGNING A VICTIM AND OFFENDER
21 RESTORATIVE JUSTICE AGREEMENT, THE VICTIM OR THE OFFENDER MAY HAVE THE
22 AGREEMENT REVIEWED BY AN ATTORNEY REPRESENTING THEIR INDIVIDUAL
23 INTEREST;

24 5. THAT A VICTIM AND OFFENDER RESTORATIVE
25 JUSTICE AGREEMENT DOES NOT PRECLUDE A VICTIM FROM BRINGING A CIVIL
26 ACTION AS PROVIDED UNDER § 11–603(C) OF THIS TITLE;

27 6. THAT AN OFFENDER MAY AGREE TO A JUDGMENT OF
28 RESTITUTION FOR INDIRECT DAMAGES OR OTHER DAMAGES THROUGH A VICTIM
29 AND OFFENDER RESTORATIVE JUSTICE AGREEMENT THAT ARE NOT POSSIBLE
30 THROUGH A COURT ORDER;

31 7. THAT AN OFFENDER WAIVES THE ABILITY TO
32 CHALLENGE THE AMOUNT OR TYPE OF RESTITUTION THAT THE OFFENDER AGREED
33 TO PAY IN A VICTIM AND OFFENDER RESTORATIVE JUSTICE AGREEMENT; AND

1 8. THAT, EXCEPT AS OTHERWISE PROVIDED BY
2 AGREEMENT, A VICTIM AND OFFENDER RESTORATIVE JUSTICE AGREEMENT
3 RESTITUTION AMOUNT OR AN ARBITRATED RESTITUTION AMOUNT SHALL BE
4 ENTERED AND ENFORCED AS IF THE RESTITUTION AMOUNT WAS DETERMINED BY A
5 COURT;

6 (II) MAY MAKE SUGGESTIONS OR RECOMMENDATIONS TO
7 FACILITATE A VICTIM AND OFFENDER RESTORATIVE JUSTICE AGREEMENT; AND

8 (III) MAY NOT DISCLOSE INFORMATION OBTAINED AND
9 DISCUSSED WITHOUT THE CONSENT OF THE VICTIM AND THE OFFENDER.

10 (3) IF THE VICTIM AND THE OFFENDER AGREE, THE
11 VICTIM–OFFENDER LEGAL SPECIALIST MAY ARBITRATE THE AMOUNT OF
12 RESTITUTION OWED BY THE OFFENDER TO THE VICTIM SEPARATELY OR AS PART OF
13 A VICTIM AND OFFENDER RESTORATIVE JUSTICE AGREEMENT.

14 (4) UNLESS THE VICTIM AND THE OFFENDER AGREE OTHERWISE,
15 THE RESTITUTION PROVISIONS OF A VICTIM AND OFFENDER RESTORATIVE JUSTICE
16 AGREEMENT ARE NOT SUBJECT TO COURT MODIFICATION IF:

17 (I) THE AMOUNT OF RESTITUTION WAS ARBITRATED; OR

18 (II) THE COURT INCORPORATED A RESTORATIVE JUSTICE
19 AGREEMENT THAT PROVIDED FOR RESTITUTION.

20 (5) NO LEGAL DETERMINATION OR FACTUAL FINDINGS ARE
21 REQUIRED FOR THE COURT TO INCORPORATE BUT NOT MERGE A VICTIM AND
22 OFFENDER RESTORATIVE JUSTICE AGREEMENT OR ARBITRATED RESTITUTION IN
23 AN ORDER OF THE COURT.

24 (6) ON JOINT STIPULATION OF THE VICTIM AND THE OFFENDER, A
25 COURT MAY ISSUE AN APPROPRIATE ORDER PROHIBITING THE DISCLOSURE OF THE
26 TERMS OF A VICTIM AND OFFENDER RESTORATIVE JUSTICE AGREEMENT IN ORDER
27 TO AVOID A SUBSTANTIAL RISK TO SAFETY AND PRIVACY AND CONSISTENT WITH
28 TRAUMA–INFORMED PRACTICES.

29 (C) (1) THE PROSECUTING ATTORNEY, THE COUNSEL FOR THE
30 OFFENDER, THE COUNSEL FOR THE VICTIM, AND THE COURT MAY PROVIDE THE
31 VICTIM–OFFENDER LEGAL SPECIALIST WITH INFORMATION THAT MAY BE HELPFUL
32 TO FACILITATE A VICTIM AND OFFENDER RESTORATIVE JUSTICE AGREEMENT.

1 **(2) THE CLERK OF THE COURT SHALL PROVIDE A VICTIM-OFFENDER**
2 **LEGAL SPECIALIST WITH ACCESS TO ALL MATERIALS IN A CASE FILE WITHOUT**
3 **CHARGE.**

4 **(3) THE VICTIM-OFFENDER LEGAL SPECIALIST MAY REQUEST OTHER**
5 **MATERIALS TO FACILITATE A VICTIM AND OFFENDER RESTORATIVE JUSTICE**
6 **AGREEMENT.**

7 **(D) THE VICTIM SERVICES UNIT MAY LIMIT THE NUMBER OF HOURS FOR**
8 **WHICH A VICTIM-OFFENDER LEGAL SPECIALIST MAY BE COMPENSATED WITHOUT**
9 **PRIOR APPROVAL.**

10 **(E) A COURT MAY GRANT ADDITIONAL TIME FOR RESTORATIVE JUSTICE**
11 **EFFORTS OR ARBITRATION IF THE VICTIM SERVICES UNIT DEMONSTRATES THAT**
12 **SIGNIFICANT PROGRESS HAS BEEN MADE AND THAT THE VICTIM AND THE**
13 **OFFENDER BOTH REQUEST ADDITIONAL TIME WITH A VICTIM-OFFENDER LEGAL**
14 **SPECIALIST.**

15 **11-1204.**

16 **(A) ON A PRETRIAL OR PRE-ADJUDICATORY MOTION OF THE STATE, A**
17 **COURT MAY DISMISS A CHARGE OF AN OFFENSE IF:**

18 **(1) THE VICTIM AND THE OFFENDER AGREE TO THE DISMISSAL; AND**

19 **(2) THE COURT CONSIDERS THE DISMISSAL PROPER.**

20 **(B) IF A COURT GRANTS A DISMISSAL UNDER THIS SECTION, THE OFFENDER**
21 **SHALL PAY THE COSTS THAT WOULD HAVE BEEN INCURRED IF THE OFFENDER HAD**
22 **BEEN FOUND GUILTY OR FOUND DELINQUENT.**

23 **(C) A COURT MAY ISSUE AN ORDER DIRECTING AN OFFENDER TO COMPLY**
24 **WITH THE TERMS OF A VICTIM AND OFFENDER RESTORATIVE JUSTICE AGREEMENT**
25 **REGARDLESS OF THE DISMISSAL OF A CASE OR THE CASE BEING PLACED ON THE**
26 **STET DOCKET.**

27 **11-1205.**

28 **(A) AT A SENTENCING OR DISPOSITION HEARING, IF THE VICTIM AND THE**
29 **OFFENDER HAVE ENTERED INTO A VICTIM AND OFFENDER RESTORATIVE JUSTICE**
30 **AGREEMENT, THE COURT:**

31 **(1) MAY INCORPORATE BUT NOT MERGE THE TERMS OF THE VICTIM**
32 **AND OFFENDER RESTORATIVE JUSTICE AGREEMENT AS AN ORDER OF THE COURT;**

1 AND

2 (2) SHALL INCORPORATE BUT NOT MERGE PROVISIONS OF A VICTIM
3 AND OFFENDER RESTORATIVE JUSTICE AGREEMENT REGARDING RESTITUTION IF
4 THERE WAS AN AGREEMENT REGARDING ARBITRATION.

5 (B) IF A COURT HAS INCORPORATED A VICTIM AND OFFENDER
6 RESTORATIVE JUSTICE AGREEMENT INTO AN ORDER OF THE COURT:

7 (1) THE CLERK OF THE COURT SHALL PROVIDE A COPY OF THE
8 AGREEMENT TO ANY ENTITY THAT WILL HAVE CUSTODY OF OR SUPERVISION OVER
9 THE OFFENDER; AND

10 (2) COMPLIANCE WITH THE TERMS OF THE AGREEMENT SHALL BE
11 CONSIDERED ADDITIONAL CONDITIONS OF RELEASE FOR THE OFFENDER.

12 **Article – State Finance and Procurement**

13 6–226.

14 (a) (2) (i) Notwithstanding any other provision of law, and unless
15 inconsistent with a federal law, grant agreement, or other federal requirement or with the
16 terms of a gift or settlement agreement, net interest on all State money allocated by the
17 State Treasurer under this section to special funds or accounts, and otherwise entitled to
18 receive interest earnings, as accounted for by the Comptroller, shall accrue to the General
19 Fund of the State.

20 (ii) The provisions of subparagraph (i) of this paragraph do not apply
21 to the following funds:

22 121. the Markell Hendricks Youth Crime Prevention and
23 Diversion Parole Fund; [and]

24 122. the Federal Government Shutdown Employee Assistance
25 Loan Fund; AND

26 **123. THE RESTORATIVE JUSTICE INTERVENTION**
27 **REVOLVING FUND.**

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be
29 interpreted to apply to any other restorative justice program for victims and offenders.

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June
31 1, 2020.