

House Bill 172

By: Representatives Golick of the 34th, Roberts of the 154th, Ralston of the 7th, Mumford of the 95th, Miller of the 106th, and others

A BILL TO BE ENTITLED
AN ACT

1 To enact the "Crime Victims Restitution Act of 2005" so as to substantially revise the laws
2 of this state relating to the conduct of criminal trials and the impact of the criminal justice
3 system on victims of crime; to amend Article 5 of Chapter 3 of Title 9 of the Official Code
4 of Georgia Annotated, relating to tolling of limitations in civil cases, so as to provide for a
5 statute of repose in certain tort actions brought by victims of crimes against the persons
6 accused of such crimes; to amend Title 17 of the Official Code of Georgia Annotated,
7 relating to criminal procedure, so as to change the provisions relating to victim impact
8 statements; to codify certain common law procedures relating to the collection of fines and
9 restitution in criminal cases which authorize a fine to be reduced to a judgment and recorded
10 on the general execution docket; to provide that actions to collect such fines may be brought
11 by prosecuting attorneys; to substantially revise the procedures for the award of restitution
12 to victims of crime; to provide procedures for certain transfers of property to be set aside; to
13 provide for the rights of bona fide purchasers for value of certain property that may be
14 subject to set aside proceeding; to amend Code Section 48-7-161 of the Official Code of
15 Georgia Annotated, relating to definitions relating to setoff debt collection, so as to change
16 the provisions relating to collection of restitution for victims of crime; to provide for other
17 matters relative to the foregoing; to provide for an effective date; to repeal conflicting laws;
18 and for other purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 **SECTION 1.**

21 This Act shall be known and may be cited as the "Crime Victims Restitution Act of 2005."

22 **SECTION 2.**

23 Article 5 of Chapter 3 of Title 9 of the Official Code of Georgia Annotated, relating to tolling
24 of limitations of actions, is amended by inserting a new Code Section 9-3-99 to read as
25 follows:

1 "9-3-99.
 2 Unless otherwise provided by law, if a criminal prosecution is brought by the state for a
 3 violation of Title 16 of this Code, then the running of the period of limitations with respect
 4 to any cause of action in tort which may be brought by the victim of such violation based
 5 upon any matter alleged in the indictment, special presentment, or accusation shall be
 6 suspended during the pendency of the prosecution, provided that such time does not exceed
 7 five years."

8 **SECTION 3.**

9 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
 10 amended by striking paragraph (2) of subsection (a) of Code Section 17-10-1.1, relating to
 11 judicial consideration of victim impact statements, and inserting in lieu thereof a new
 12 paragraph (2) to read as follows:

13 "(2) ~~A victim~~ When a victim impact statement has been submitted to the prosecuting
 14 attorney by a victim, it shall be attached to the case file and may be used by the
 15 prosecuting attorney or the judge during any stage of the proceedings against the
 16 defendant involving predisposition, plea bargaining, sentencing, or determination of
 17 restitution. Prior to any judicial proceeding at which the court will consider disposition
 18 of the case or imposition of sentence, the prosecuting attorney shall file the victim impact
 19 statement with the court and the court shall consider such victim impact statement prior
 20 to imposing sentence."

21 **SECTION 4.**

22 Said title is further amended by adding a new Code Section 17-10-20 at the end of Article
 23 1, to read as follows:

24 "17-10-20.

25 (a) In any case in which a fine or restitution is imposed as part of the sentence, such fine
 26 and restitution shall constitute a judgment against the defendant. It shall be the duty of the
 27 clerk of the sentencing court to issue a writ of fieri facias thereon and enter it on the general
 28 execution docket of the superior court of the county in which such sentence was imposed.
 29 Such fieri facias may also be entered on the general execution docket in any county in
 30 which the defendant owns real property.

31 (b) If, in imposing sentence, the court sets a time certain for such fine or restitution to be
 32 paid in full, no execution shall issue upon the writ of fieri facias against the property of the
 33 defendant until such time as the time set by the court for payment of the fine or restitution
 34 shall have expired.

1 (c) If the fine or restitution is not paid in full, the prosecuting attorney of the sentencing
 2 court shall be authorized to proceed to enforce the unpaid portion of such judgment by
 3 instituting any procedure for execution upon the writ of fieri facias through levy,
 4 foreclosure, garnishment, and all other actions provided for the enforcement of judgments
 5 in the State of Georgia and in other states and foreign nations where such judgment is
 6 afforded full faith and credit under the Uniform Foreign Money Judgments Act or
 7 domestication thereof.

8 (d) Notwithstanding the provisions of Code Section 9-12-60, a judgment entered on the
 9 general execution docket pursuant to this Code section shall not become dormant during
 10 any period when the defendant is incarcerated and for seven years thereafter. Such
 11 judgment shall be subject to revival in the same manner as provided for dormant judgments
 12 under Code Section 9-12-60.

13 (e) No fees, costs, or other charges authorized by law in civil cases shall be charged by a
 14 clerk of superior court for entering a judgment arising out of a criminal case on the general
 15 execution docket or for any action brought by the state to enforce such judgment.

16 (f) The provisions of this Code section shall be supplemental to any other provision of law
 17 applicable to the collection of fines or restitution in criminal cases."

18 SECTION 5.

19 Said title is further amended by striking Article 1 of Chapter 14, relating to restitution, in its
 20 entirety and inserting in lieu a new Article 1 to read as follows:

21 "ARTICLE 1

22 17-14-1.

23 It is declared to be the policy of this state that restitution to their victims by those found
 24 guilty of crimes or adjudicated as having committed delinquent acts is a primary concern
 25 of the criminal justice system and the juvenile justice system.

26 17-14-2.

27 As used in this article, the term:

28 (1) 'Board' means the State Board of Pardons and Paroles.

29 (1.1) 'Conviction' means an adjudication of guilt of or a plea of guilty or nolo contendere
 30 to the commission of an offense against the laws of this state. Such term includes any
 31 such conviction or plea, notwithstanding the fact that sentence was imposed pursuant to
 32 Article 3 of Chapter 8 of Title 42. Such term also includes the adjudication or plea of a

1 juvenile to the commission of an act which, if committed by an adult, would constitute
 2 a crime under the laws of this state.

3 (2) 'Damages' means all damages which a victim could recover against an offender in a
 4 civil action, including, but not limited to, a wrongful death action or action for tort, based
 5 on the same act or acts for which the offender is sentenced, except punitive damages and
 6 damages for pain and suffering, mental anguish, or loss of consortium. Such damages
 7 may include, but not be limited to:

8 (A) Loss of income;

9 (B) The reasonably determined cost of medical and related professional services and
 10 devices actually incurred and reasonably expected to be incurred relating to physical
 11 and psychological care;

12 (C) The reasonably determined cost of physical and occupational therapy and
 13 rehabilitation actually incurred and reasonably expected to be incurred;

14 (D) The cost of actual funeral and burial or crematory services;

15 (E) The reasonably determined costs of transportation to and from court proceedings
 16 related to the prosecution of the crime;

17 (F) The reasonably determined costs of homemaking or child care, which is provided
 18 without compensation by a relative, friend, or any other person, in an amount equal to
 19 the costs that would reasonably be incurred as a result of the crime or the prosecution
 20 of such crime for that homemaking and child care based on the rates in the area for
 21 comparable services; and

22 (G) If the crime results in damage to or loss or destruction of property of a victim,
 23 reimbursement in an amount equal to the value of the lost or destroyed property or the
 24 cost of repairs of damaged property and all consequential expenses incurred by the
 25 victim, including loss of use, lost profits, loss of rental income, and transportation costs
 26 on the date of the damage, loss, or destruction or the date sentence is imposed,
 27 whichever is greater.

28 (3) 'Department' means the Department of Corrections.

29 (4) 'Offender' means any natural person, firm, partnership, association, public or private
 30 corporation, or other legal entity who that has been placed on probation under Article 3
 31 of Chapter 8 of Title 42 or sentenced for any crime or any juvenile who has been
 32 adjudged delinquent ~~or unruly~~.

33 (5) 'Ordering authority' means ~~the~~:

34 (A) A court of competent jurisdiction;

35 (B) the The State Board of Pardons and Paroles;

36 (C) the The Department of Corrections, or;

37 (D) The Department of Juvenile Justice; or

1 ~~(E) any Any~~ combination thereof, as is required by the context.

2 (5.1) 'Parent' means a biological or adoptive parent or legal guardian who has actual
 3 physical custody of a minor, but does not include a foster parent.

4 ~~(6) 'Relief' means any suspended or probated sentence, including probation imposed~~
 5 ~~under Article 3 of Chapter 8 of Title 42;~~ any parole or other conditional release from
 6 incarceration; the awarding of earned time allowances; reduction in security status; or
 7 placement in prison rehabilitation programs, including, but not limited to, those in which
 8 the offender receives monetary compensation.

9 (7) 'Restitution' means any property, lump sum, or periodic payment ordered to be made
 10 by any offender to any victim by any ordering authority. Where the victim is a public
 11 corporation or governmental entity or where the offender is a juvenile, restitution may
 12 also be in the form of services ordered to be performed by the offender.

13 (8) 'Restitution order' means any order, decree, or judgment of an ordering authority
 14 which requires an offender to make restitution ~~as a condition or term of any relief granted~~
 15 ~~to an offender.~~

16 (9) 'Victim' means any:

17 ~~(A) natural~~ Natural person or his or her personal representative or, if the victim is
 18 deceased, his or her estate; or

19 ~~(B) any Any~~ firm, partnership, association, public or private corporation, or
 20 governmental entity

21 ~~suffering damages caused by an offender's unlawful act; provided, however, that the term~~
 22 'victim' shall not include any participant in the offender's criminal activities.

23 17-14-3.

24 (a) Subject to the provisions of Code Section 17-14-10, notwithstanding any other
 25 provision of law to the contrary, and in addition to any other penalty imposed by law, a The
 26 judge of any court of competent jurisdiction may shall order that an adult offender to make
 27 full restitution as a condition of any relief ordered by the court. The board may order that
 28 an adult offender make restitution as a condition of any relief ordered by the board. The
 29 department may order that an adult offender make restitution as a condition of any relief
 30 ordered by the department to any victim.

31 (b) The court shall order restitution be paid to the Georgia Crime Victims Compensation
 32 Board, other governmental entities, or to any individuals, partnerships, corporations,
 33 associations, or other legal entities acting on behalf of a governmental entity that have
 34 compensated the victim or the victim's estate for a loss incurred by the victim to the extent
 35 of the compensation paid for that loss. The court shall also order restitution for the costs
 36 of services provided to persons or entities that have provided services to the victim as a

1 result of the crime. Services that are subject to restitution under this subsection include,
 2 but are not limited to, shelter, food, clothing, and transportation. However, an order of
 3 restitution shall require that all restitution to a victim or victim's estate under the order be
 4 made before any restitution to any other person or entity under that order is made.

5 (c) The court shall not order restitution to be paid to a victim or victim's estate if the
 6 victim or victim's estate has received or is to receive full compensation for that loss and
 7 the court shall state on the record with specificity the reasons for its action.

8 (d) If the offender is placed on probation, including probation imposed pursuant to Chapter
 9 11 of Title 15 or Article 3 of Chapter 8 of Title 42, or sentence is suspended, deferred, or
 10 withheld, restitution ordered under this Code section shall be a condition of that probation,
 11 sentence, or order.

12 (e) If the offender is granted relief by the Department of Juvenile Justice, Department of
 13 Corrections, or the State Board of Pardons and Paroles, the terms of any court order
 14 requiring the offender to make restitution to a victim shall be a condition of such relief in
 15 addition to any other terms or conditions which may apply to such relief.

16 17-14-4.

17 Notwithstanding any provision of Code Section 42-9-45 to the contrary, the board may
 18 grant parole prior to the completion of one-third of the sentence if restitution is ordered as
 19 a condition of the parole.

20 17-14-5.

21 ~~(a) The juvenile courts are expressly directed to consider the strong policy of this state in~~
 22 ~~favor of restitution but are not required to place the goal of restitution by juveniles above~~
 23 ~~the goal of rehabilitation or treatment of delinquent or unruly juveniles. It is, however,~~
 24 ~~declared to be the policy of this state to recognize that the goal of restitution is consistent~~
 25 ~~with the goal of rehabilitation of delinquent or unruly juveniles and to seek to provide~~
 26 ~~restitution in such cases.~~

27 ~~(b) The~~ Notwithstanding any other provision of law to the contrary, the juvenile courts are
 28 ~~expressly authorized to order restitution as a condition or limitation of the probation of~~
 29 shall order restitution in any case involving delinquent or unruly juveniles in the same
 30 ~~manner as is authorized by this article for adult offenders.~~

31 ~~(c) For purposes of ensuring compliance with the~~ restitution order, the juvenile courts are
 32 authorized to retain jurisdiction over a juvenile subject to a to such restitution order for a
 33 ~~reasonable period after the juvenile reaches the age of majority~~ until the juvenile reaches
 34 21 years of age.

1 (d) ~~As an alternative to subsection (c) of this Code section, the~~ At any time after offenders
 2 who are subject to restitution orders imposed by juvenile courts reach 17 years of age, the
 3 juvenile courts are authorized to transfer to the superior courts, and the superior courts are
 4 authorized to accept, jurisdiction over enforcement of restitution orders against juveniles
 5 ~~who, since entry of the order, have attained the age of majority~~ such offenders; provided,
 6 however, that, if the juvenile court retains jurisdiction of such offender as provided in
 7 subsection (c) of this Code section and the terms of the restitution order are not completed
 8 before the offender's twenty-first birthday, the juvenile court shall transfer the restitution
 9 order to the superior court.

10 (e) If the court determines that a juvenile is or will be unable to pay all of the restitution
 11 ordered, after notice to the juvenile's parent or parents and an opportunity for the parent
 12 or parents to be heard, the court may order the parent or parents having supervisory
 13 responsibility for the juvenile at the time of the acts upon which an order of restitution is
 14 based to pay any portion of the restitution ordered that is outstanding. An order under this
 15 subsection does not relieve the juvenile of his or her obligation to pay restitution as
 16 ordered, but the amount owed by the juvenile shall be offset by any amount paid by his or
 17 her parent or parents.

18 (f) If the court orders a parent to pay restitution under subsection (e) of this Code section,
 19 the court shall take into account the parent's financial resources and the burden that the
 20 payment of restitution will impose, with due regard to any other moral or legal financial
 21 obligations that the parent may have. If a parent is required to pay restitution under
 22 subsection (e) of this Code section, the court shall provide for payment to be made in
 23 specified installments and within a specified period of time.

24 17-14-6.

25 Where an offender has made total or partial restitution to a victim, the ordering authority
 26 shall ~~consider the fact of such restitution in considering any case within its power~~ set off
 27 any such amounts and reduce the amount payable to the victim. Any amount paid to a
 28 victim or victim's estate under an order of restitution shall be set off against any amount
 29 later recovered as compensatory damages by the victim or the victim's estate in any federal
 30 or state civil proceeding and shall reduce the amount payable to a victim or a victim's
 31 estate by an award from the Georgia Crime Victims Compensation Board made prior to or
 32 after an order of restitution under this article.

33 17-14-7.

34 Any offender may offer a restitution plan to the ordering authority. If a plan is offered, it
 35 shall be the duty of the ordering authority to consider the factors stated in Code Section

1 17-14-10 and to make the plan part of a restitution order if acceptable to the ordering
2 authority.

3 17-14-8.

4 ~~(a) In deciding any case subject to this article, before granting any relief the ordering~~
5 ~~authority shall make a written finding either:~~

6 ~~(1) That there are no victims to whom restitution should be made under the policy of this~~
7 ~~state;~~

8 ~~(2) That the circumstances of the case are such that no restitution order or plan is~~
9 ~~reasonably possible;~~

10 ~~(3) That the offender, in cooperation with the ordering authority, has developed and~~
11 ~~consented to a plan of restitution, which plan shall be made a part of a restitution order;~~
12 ~~or~~

13 ~~(4) That restitution will be ordered as a condition of the relief. Notwithstanding any law~~
14 ~~to the contrary, in any case in which a court sentences an offender to pay restitution and~~
15 ~~a fine, if the court permits the offender to pay such restitution and fine in other than a~~
16 ~~lump sum, the clerk of any superior court of this state, probation officer or parole officer,~~
17 ~~or other official who receives such partial payments shall apply not less than one-half of~~
18 ~~each payment to the restitution before paying any portion of such fine or any forfeitures,~~
19 ~~costs, fees, or surcharges provided for by law to any agency, department, commission,~~
20 ~~committee, authority, board, or bureau of state or local government.~~

21 ~~(b) The failure to make a finding as required by this Code section, however, shall not~~
22 ~~invalidate any order or other action of the ordering authority The clerk of any court of this~~
23 ~~state, probation officer or parole officer, or other official who receives partial payments for~~
24 ~~restitution shall pay the restitution amount to the victim as provided in the restitution order~~
25 ~~not later than the last day of each month, provided that the amount exceeds \$100.00. If the~~
26 ~~amount does not exceed \$100.00, the clerk of any court of this state, probation officer or~~
27 ~~parole officer, or other official may allow the amount of restitution to accumulate until such~~
28 ~~time as it exceeds \$100.00 or until the end of the next calendar quarter, whichever occurs~~
29 ~~first.~~

30 17-14-9.

31 The amount of restitution ordered ~~may be equal to or less than, but not more than,~~ shall not
32 exceed the victim's damages.

1 17-14-10.

2 (a) In determining the nature and amount of restitution, the ordering authority shall
3 consider:

4 (1) The ~~present financial condition~~ resources of the offender and his or her dependents;

5 (2) The probable future earning capacity of the offender and his or her dependents;

6 (3) The amount of damages;

7 (4) The goal of restitution to the victim and the goal of rehabilitation of the offender;

8 (5) Any restitution previously made;

9 (6) The period of time during which the restitution order will be in effect; and

10 (7) Other ~~appropriate~~ factors which the ordering authority deems to be appropriate.

11 (b) A victim may waive his or her right to obtain restitution pursuant to this chapter. Any
12 such waiver shall be made in writing and filed with the court having jurisdiction over the
13 criminal case. Such waiver shall not affect any other rights or remedies that the victim may
14 have against the offender under the laws of this state or the United States or any of the
15 several states.

16 17-14-11.

17 An order for restitution shall not bar any civil action against the offender. However, any
18 payments made by an offender to a victim under an order for restitution may be a setoff
19 against any judgment awarded to the victim in a civil action based on the same facts for
20 which restitution was ordered. In any such action brought by a victim against the offender,
21 the offender shall be estopped from denying any matter relating to damages that is proved
22 in the criminal proceeding. The fact of restitution or a restitution order under this article
23 shall not be placed before the jury on the issue of liability. If the amount of restitution
24 made is in dispute and liability is established, the court shall order further appropriate
25 proceedings to determine the amount of setoff.

26 17-14-12.

27 The ordering authority shall retain jurisdiction to modify a restitution order at any time
28 before the expiration of the relief ordered.

29 17-14-13.

30 (a) A restitution order shall be enforceable as is a civil judgment by execution as provided
31 in Code Section 17-10-20.

32 (b) If an offender willfully refuses to comply with a restitution order, the order, in the
33 discretion of the court, may be enforced by attachment for contempt, upon the application
34 of the prosecuting attorney or the victim.

1 (c) Failure to comply with a restitution order may, in the discretion of the ordering
2 authority, be grounds to revoke or cancel the relief at any time the restitution order is in
3 effect. Where the relief is earned time allowances, the department may suspend the
4 offender from earning earned time allowances for a specified period of time.

5 (d) When an inmate offender has been ordered to make restitution for any damage to state
6 property caused by such offender, the department may order the seizure of all moneys in
7 or coming into the monetary account of the inmate offender.

8 17-14-14.

9 (a) Payments pursuant to an order for restitution shall be made to the clerk of the court or
10 to any other person, for the benefit of the victim or victims, as the ordering authority shall
11 order.

12 (b) In each case in which payment of restitution is ordered as a condition of probation or
13 parole, the ordering authority may require any employed offender to execute a wage
14 assignment to pay the restitution.

15 (c) The clerk of court or the probation or parole officer assigned to the case shall review
16 the case not less than twice yearly to ensure that restitution is being paid as ordered. If the
17 restitution was ordered to be made within a specific period of time, the case shall be
18 reviewed at the end of the specific period of time to determine if the restitution has been
19 paid in full. The final review shall be conducted not less than 60 days before the sentence
20 or probationary or parole period expires. If it is determined at any review that restitution
21 is not being paid as ordered, a written report of the violation shall be filed with the court
22 on a form prescribed by the Administrative Office of the Courts. The report shall include
23 a statement of the amount of the arrearage and any reasons for the arrearage known by the
24 probation officer. The probation officer shall immediately provide a copy of the report or
25 petition to the prosecuting attorney.

26 (d) If the ordering authority permits the offender to pay restitution in other than a lump
27 sum, the ordering authority may require the offender to pay interest on the amount of
28 restitution due the victim or the victim's estate. Such interest shall be set at the same rate
29 as is provided by Code Section 7-4-12 for judgments.

30 17-14-15.

31 (a) Nothing in this article shall authorize peonage; and this article shall be construed and
32 diligently administered to prevent peonage.

33 (b) No offender shall be denied any benefit, relief, or privilege to which he or she might
34 otherwise be entitled or eligible solely because he or she is financially unable and cannot
35 become financially able to make restitution.

1 17-14-16.

2 ~~This article shall not be construed to limit or abrogate any power of any court, agency, or~~
 3 ~~board to place other conditions, limits, terms, rules, or regulations on any relief in the~~
 4 ~~nature of suspension of sentence, probation, parole, pardon, or restoration of rights~~ If an
 5 offender who is ordered to pay restitution under this Code section is remanded to the
 6 jurisdiction of the Department of Corrections or the Department of Juvenile Justice, the
 7 court shall provide a copy of the order of restitution to such department when the offender
 8 is remanded to such department's jurisdiction.

9 17-14-17.

10 (a) ~~For purposes of this Code section only, the term:~~

11 (1) ~~'Conviction' means a finding or verdict of guilty or a plea of guilty, regardless of~~
 12 ~~whether an appeal of the conviction has been sought.~~

13 (2) ~~'Victim' means any natural person against whom a crime specified in Chapter 7 or 8~~
 14 ~~of Title 16 has been committed~~ The court may, after notice and hearing, set aside any
 15 transfer of an interest of the offender in any real, personal, or other property that was
 16 made or occurred on or after the date of the offender's crime if the offender voluntarily
 17 made such transfer with intent to:

18 (1) Conceal the crime or the fruits of the crime;

19 (2) Hinder, delay, or defraud any victim;

20 (3) Avoid the payment of restitution; or

21 (4) Receive less than a reasonably equivalent value in exchange for such transfer.

22 (b) ~~Notwithstanding the provisions of Code Section 17-14-3, the judge of any court of~~
 23 ~~competent jurisdiction shall order that an adult offender, upon a conviction of any crime~~
 24 ~~specified in Chapter 7 or 8 of Title 16, make restitution to any victim as a condition of any~~
 25 ~~relief ordered by the court~~ There shall be a rebuttable presumption that any transfer of
 26 property was made with the intent to hinder, delay, or defraud a victim if it occurs:

27 (1) Within six months prior to the offender's arrest or indictment, whichever occurs
 28 first;

29 (2) During the pendency of the criminal or delinquency proceeding; or

30 (3) Within 30 days after the judgment of restitution becomes final.

31 (c)(1) ~~The amount of restitution ordered shall be equal to the unreimbursed or~~
 32 ~~uncompensated portion of the victim's damages~~ As used in this subsection, the term:

33 (A) 'Interest holder' means a secured party within the meaning of Code Section
 34 11-9-102 or the beneficiary of a perfected encumbrance pertaining to an interest in
 35 property.

1 (B) 'Owner' means a person, other than an interest holder, who has an interest in
 2 property and is in compliance with any statute requiring its recordation or reflection in
 3 public records in order to perfect the interest against a bona fide purchaser for value.

4 (2) A transfer of an interest in real, personal, or other property shall not be set aside if
 5 the owner of such interest or interest holder establishes that the owner or interest holder:

6 (A) Is not legally accountable for the conduct of the offender, did not consent to it, and
 7 did not know and could not reasonably have known of the conduct or that it was likely
 8 to occur;

9 (B) Had not acquired and did not stand to acquire substantial proceeds from the
 10 conduct of the offender other than as an interest holder in an arm's length commercial
 11 transaction;

12 (C) With respect to conveyances for transportation only, did not hold the property
 13 jointly, in common, or in community with the offender;

14 (D) Does not hold the property for the benefit of or as nominee for the offender, and
 15 if the owner or interest holder acquired the interest through any such person, the owner
 16 or interest holder acquired it as a bona fide purchaser for value without knowingly
 17 taking part in an illegal transaction; and

18 (E) Acquired the interest:

19 (i) Before the completion of the conduct of the offender and the offender did not have
 20 the authority to convey the interest to a bona fide purchaser for value at the time of
 21 the conduct; or

22 (ii) After the completion of the conduct of the offender:

23 (I) As a bona fide purchaser for value without knowingly taking part in an illegal
 24 transaction;

25 (II) Before the filing of a lien on it; and

26 (III) At the time the interest was acquired, was reasonably without cause to believe
 27 that the property was subject or likely to become subject to judgment pursuant to
 28 this Code section.

29 ~~(d) For purposes of this Code section only, the court is not required to make any written~~
 30 ~~findings in accordance with Code Section 17-14-8 when ordering restitution; provided,~~
 31 ~~however, that a court may order a restitution plan in accordance with the provisions of~~
 32 ~~Code Sections 17-14-7 and 17-14-10~~ Any motion to set aside a transfer of property made
 33 pursuant to this Code section shall be served on the offender and any person in legal or
 34 actual possession of such property in the same manner as is provided for under
 35 paragraph (2) of subsection (i) of Code Section 16-13-49. A person in legal or actual
 36 possession of such property may interplead as to such motion. If a person interpleads to
 37 a motion to set aside a transfer of property, the claims of the interpleading party shall be

1 heard by the court as a proceeding in quia timet pursuant to Article 3 of Chapter 3 of
 2 Title 23.

3 ~~(e) The provisions of Code Sections 17-14-11 through 17-14-16 shall apply to any~~
 4 ~~restitution orders issued in accordance with this Code section.~~

5 17-14-18.

6 If a person or entity entitled to restitution cannot be located or refuses to claim such
 7 restitution within two years after the date on which he or she could have claimed such
 8 restitution, the restitution paid to such person or entity shall be deposited in the Crime
 9 Victims Emergency Fund created pursuant to Chapter 15 of Title 17 or its successor fund.
 10 However, a person or entity entitled to such restitution may claim such restitution any time
 11 within five years of the date on which he or she could have claimed such restitution by
 12 applying in writing to Georgia Crime Victims Compensation Board. Upon receipt of such
 13 application and verification that the person making the claim is in fact entitled to such
 14 restitution, the board shall pay such restitution to the person or entity.

15 17-14-19.

16 (a) No award of any kind shall be made under this chapter to a victim injured while
 17 confined in any federal, state, county, or municipal jail, prison, or other correctional
 18 facility.

19 (b) If, subsequent to restitution being ordered pursuant to this article, a victim is convicted
 20 of a crime for which restitution is ordered, the court shall consider the previously ordered
 21 restitution as part of the financial resources of such victim.

22 17-14-20.

23 This article shall not be construed to limit or abrogate any power of any court, agency, or
 24 board to place other conditions, limits, terms, rules, or regulations on any relief in the
 25 nature of suspension of sentence, probation, parole, pardon, or restoration of rights."

26 **SECTION 6.**

27 Said title is further amended by striking subsection (b) of Code Section 17-15-5, relating to
 28 the filing of victim compensation claims, and inserting in lieu thereof a new subsection (b)
 29 to read as follows:

30 "(b) A claim must be filed by the claimant not later than one year after the occurrence of
 31 the crime upon which such claim is based or not later than one year after the death of the
 32 victim; provided, however, that, upon good cause shown, the board may extend that time

1 for filing for a period not exceeding ~~two~~ three years after such occurrence. Claims shall
 2 be filed in the office of the board in person or by mail."

3 **SECTION 7.**

4 Code Section 48-7-161 of the Official Code of Georgia Annotated, relating to definitions
 5 regarding setoff debt collection, is amended by striking subparagraphs (E) and (F) of
 6 paragraph (1) and inserting in lieu thereof new subparagraphs (E), (F), (G), and (H) to read
 7 as follows:

8 (E) The Department of Labor with respect to the collection of debts arising under Code
 9 Sections 34-8-254 and 34-8-255 and Article 5 of Chapter 8 of Title 34, with the
 10 exception of Code Sections 34-8-158 through 34-8-161; provided, however, that the
 11 Department of Labor establishes that the debtor has been afforded required due process
 12 rights by such Department of Labor with respect to the debt and all reasonable
 13 collection efforts have been exhausted; ~~and~~

14 (F) The Department of Corrections with respect to probation fees arising under Code
 15 Section 42-8-34 and restitution or reparation ordered by a court as a part of the sentence
 16 imposed on a person convicted of a crime ~~and placed on probation by the court if such~~
 17 ~~person has absconded or ended probation in warrant status.~~ who is in the legal custody
 18 of the department;

19 (G) The State Board of Pardons and Paroles with respect to restitution imposed on a
 20 person convicted of a crime and subject to the jurisdiction of the board; and

21 (H) The Department of Juvenile Justice with respect to restitution imposed on a
 22 juvenile for a delinquent act which would constitute a crime if committed by an adult."

23 **SECTION 8.**

24 This Act shall become effective on July 1, 2005.

25 **SECTION 9.**

26 All laws and parts of laws in conflict with this Act are repealed.