

The Senate Judiciary Committee offered the following substitute to HB 172:

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 fines and restitution may
11 be instituted; to substantially revise the procedures for the award of restitution to victims of
12 crime; to provide for definitions; to provide for a hearing and burden of proof; to provide
13 procedures for certain transfers of property to be set aside; to provide for a statute of
14 limitations on a cause of action based upon a fraudulent transfer; to amend Code Section
15 48-7-161 of the Official Code of Georgia Annotated, relating to definitions relating to setoff
16 debt collection, so as to change the provisions relating to collection of restitution for victims
17 of crime; to provide for other matters relative to the foregoing; to provide for an effective
18 date; to repeal conflicting laws; and for other purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

SECTION 2.

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

1 "9-3-99.

2 The running of the period of limitations with respect to any cause of action in tort that may
3 be brought by the victim of an alleged crime which arises out of the facts and
4 circumstances relating to the commission of such alleged crime committed in this state
5 shall be tolled from the date of the commission of the alleged crime or the act giving rise
6 to such action in tort until the prosecution of such crime or act has become final or
7 otherwise terminated, provided that such time does not exceed six years."

8 **SECTION 3.**

9 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
10 amended by striking in its entirety Code Section 17-10-1.1, relating to judicial consideration
11 of victim impact statements, and inserting in lieu thereof the following:

12 "17-10-1.1.

13 (a)(+) A prosecuting attorney bringing charges against a defendant shall notify, where
14 practical, the alleged victim or, when the victim is no longer living, a member of the
15 victim's family of his or her right under certain circumstances to submit a victim impact
16 statement:

17 ~~(A)~~(1) Where the charge is a felony, if the defendant allegedly caused physical,
18 psychological, or, if restitution is sought, economic injury to the victim; or

19 ~~(B)~~(2) Where the charge is a misdemeanor, if the defendant allegedly caused serious
20 physical injury or death to the victim.

21 ~~(2) A victim impact statement submitted by a victim shall be attached to the case file and~~
22 ~~may be used by the prosecuting attorney or the judge during any stage of the proceedings~~
23 ~~against the defendant involving predisposition, plea bargaining, sentencing, or~~
24 ~~determination of restitution.~~

25 (b) A victim impact statement shall:

26 (1) Identify the victim of the offense and the perpetrator;

27 (2) Itemize any economic loss suffered by the victim as a result of the offense;

28 (3) Identify any physical injury suffered by the victim as a result of the offense along
29 with its seriousness and permanence;

30 (4) Describe any change in the victim's personal welfare or familial relationships as a
31 result of the offense;

32 (5) Identify any request for psychological services initiated by the victim or the victim's
33 family as a result of the offense; and

34 (6) Contain any other information related to the impact of the offense upon the victim
35 that the court requires.

1 (c) The State Board of Pardons and Paroles shall establish a form document which shall
 2 include the elements set forth in subsection (b) of this Code section and shall make copies
 3 of such form available to prosecuting attorneys in the state. When requested by the victim,
 4 the victim impact statement form document shall be provided to the victim by the
 5 prosecuting attorney. The form shall include the address of the State Board of Pardons and
 6 Paroles and contain a statement that the victim must maintain a copy of his or her address
 7 with the State Board of Pardons and Paroles and must notify the board of any change of
 8 address.

9 (d) The victim may complete the victim impact statement form and submit such form to
 10 the appropriate prosecuting attorney charged with the prosecution of the case. If the victim
 11 is unable to do so because of such victim's mental, emotional, or physical incapacity, or
 12 because of such victim's age, the victim's attorney or a family member may complete the
 13 victim impact statement form on behalf of the victim. ~~The prosecuting attorney shall file~~
 14 ~~any such written victim impact statement, if in existence at that time, with the court.~~

15 (e)(1) ~~The court prosecuting attorney shall, in the manner prescribed by rule of court,~~
 16 provide the defendant with a copy of the victim impact statement within a reasonable
 17 period of time prior to any stage of the proceedings against the defendant involving
 18 predisposition or plea bargaining, and within a reasonable period of time, but not less
 19 than ten days, prior to any hearing at which it is to be considered and sentencing or
 20 determination of restitution is being considered so as to allow the defendant to have the
 21 opportunity to respond to and rebut the ~~victim's written statements~~ victim impact
 22 statement.

23 (2) The court shall consider the victim impact statement prior to sentencing or any
 24 determination of restitution.

25 (f) If for any reason a victim was not allowed an opportunity to make a written victim
 26 impact statement, the victim may submit a victim impact statement to the State Board of
 27 Pardons and Paroles in any case prior to consideration of parole.

28 (g) No sentence shall be invalidated because of failure to comply with the provisions of
 29 this Code section. This Code section shall not be construed to create any cause of action
 30 or any right of appeal on behalf of any person."

31 SECTION 4.

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

34 "17-10-20.

35 (a) In any case in which a fine or restitution is imposed as part of the sentence, such fine
 36 and restitution shall constitute a judgment against the defendant. Upon the request of the

1 prosecuting attorney, it shall be the duty of the clerk of the sentencing court to issue a writ
2 of fieri facias thereon and enter it on the general execution docket of the superior court of
3 the county in which such sentence was imposed. Such fieri facias may also be entered on
4 the general execution docket in any county in which the defendant owns real property.

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

9 (c) If the fine or restitution is not paid in full, such judgment may be enforced by
10 instituting any procedure for execution upon the writ of fieri facias through levy,
11 foreclosure, garnishment, and all other actions provided for the enforcement of judgments
12 in the State of Georgia and in other states and foreign nations where such judgment is
13 afforded full faith and credit under the Uniform Foreign Money Judgments Act or
14 domestication thereof.

15 (d) If the fine is not paid in full by the expiration of the time set by the court for payment
16 of the fine, the governing authority of the county or municipality entitled to such fine may
17 institute procedures to enforce such judgment as provided by subsection (c) of this Code
18 section.

19 (e) If the restitution is not paid in full by the expiration of the time set by the court for
20 payment of the restitution, the prosecuting attorney or the victim entitled to receive such
21 restitution may institute procedures to enforce such judgment as provided by subsection (c)
22 of this Code section.

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

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

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

33 SECTION 5.

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

"ARTICLE 1

17-14-1.

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

17-14-2.

As used in this article, the term:

(1) ~~'Board' means the State Board of Pardons and Paroles.~~ 'Conviction' means an adjudication of guilt of or a plea of guilty or nolo contendere to the commission of an offense against the laws of this state. Such term includes any such conviction or plea, notwithstanding the fact that sentence was imposed pursuant to Article 3 of Chapter 8 of Title 42. Such term also includes the adjudication or plea of a juvenile to the commission of an act which, if committed by an adult, would constitute a crime under the laws of this state.

(2) 'Damages' means all special damages which a victim could recover against an offender in a civil action, including a wrongful death action, based on the same act or acts for which the offender is sentenced, except punitive damages and damages for pain and suffering, mental anguish, or loss of consortium. Such special damages shall not be limited by any law which may cap economic damages. Special damages may include the reasonably determined costs of transportation to and from court proceedings related to the prosecution of the crime.

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

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

~~(5)~~(4) 'Ordering authority' means ~~the~~ the:

(A) A court of competent jurisdiction;

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

(C) The the Department of Corrections; or

(D) The Department of Juvenile Justice; or

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

(5) 'Parent' means a person who is the legal mother as defined in paragraph (10.2) of Code Section 15-11-2, the legal father as defined in paragraph (10.1) of Code Section 15-11-2, or the legal guardian. Such term shall not include a foster parent.

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

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

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

13 (9) 'Victim' means any:

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

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

18 suffering damages caused by an offender's unlawful act; provided, however, that the term
 19 'victim' shall not include any person who is concerned in the commission of such
 20 unlawful act as defined in Code Section 16-2-20.

21 17-14-3.

22 (a) Subject to the provisions of Code Section 17-14-10, notwithstanding the provisions
 23 contained in Chapter 11 of Title 15, and in addition to any other penalty imposed by law,
 24 a ~~The~~ judge of any court of competent jurisdiction may ~~shall~~ order that an adult offender
 25 to ~~make~~ full restitution ~~as a condition of any relief ordered by the court.~~ The board may
 26 order that an adult offender make restitution as a condition of any relief ordered by the
 27 board. The department may order that an adult offender make restitution as a condition of
 28 any relief ordered by the department to any victim.

29 (b) If the offender is placed on probation, including probation imposed pursuant to Chapter
 30 11 of Title 15 or Article 3 of Chapter 8 of Title 42, or sentence is suspended, deferred, or
 31 withheld, restitution ordered under this Code section shall be a condition of that probation,
 32 sentence, or order.

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

1 17-14-4.

2 Notwithstanding any provision of Code Section 42-9-45 to the contrary, the ~~board~~ State
3 Board of Pardons and Paroles may grant parole prior to the completion of one-third of the
4 sentence if restitution is ordered as a condition of the parole.

5 17-14-5.

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

12 (b) Notwithstanding any provision of Chapter 11 of Title 15, the ~~The juvenile courts are~~
13 ~~expressly authorized to order restitution as a condition or limitation of the probation of~~
14 shall order restitution in any case involving delinquent or unruly juveniles in the same
15 manner as is authorized by this article for adult offenders.

16 (c) For purposes of ensuring compliance with the restitution order, the juvenile courts are
17 authorized to retain jurisdiction over a juvenile subject ~~to a~~ to such restitution order ~~for a~~
18 ~~reasonable period after the juvenile reaches the age of majority~~ until the juvenile reaches
19 21 years of age. If the juvenile court retains jurisdiction of such offender as provided in this
20 Code section and the terms of the restitution order are not completed before the offender's
21 twenty-first birthday, the juvenile court shall transfer the restitution order to the superior
22 court.

23 (d) As an alternative to subsection (c) of this Code section, the juvenile courts are
24 authorized to transfer to the superior courts, and the superior courts are authorized to
25 accept, jurisdiction over enforcement of restitution orders against juveniles who, since
26 entry of the order, have attained ~~the age of majority~~ 18 years of age.

27 (e) If the court determines that a juvenile is or will be unable to pay all of the restitution
28 ordered, after notice to the juvenile's parent or parents and an opportunity for the parent
29 or parents to be heard, the court may order the parent or parents to pay any portion of the
30 restitution ordered that is outstanding where the court or a jury finds by clear and
31 convincing evidence that the parent or parents knew or should have known of the juvenile's
32 propensity to commit such acts and the acts are due to the parent's or parents' negligence
33 or reckless disregard for the juvenile's propensity to commit such acts. Upon the eighteenth
34 birthday of the juvenile, the parental obligation to pay restitution shall be terminated.

35 (f) If the court orders a parent to pay restitution under subsection (e) of this Code section,
36 the court shall take into account the considerations identified in Code Section 17-14-10. If

1 the parent or parents are required to pay restitution under subsection (e) of this Code
2 section, the court shall provide for payment to be made in specified installments and within
3 a specified period of time.

4 17-14-6.

5 (a) Where an offender has made total or partial restitution to a victim, the ordering
6 authority shall ~~consider the fact of such restitution in considering any case within its power~~
7 set off any such amounts and reduce the amount payable to the victim.

8 (b) The ordering authority shall not order restitution to be paid to a victim or victim's
9 estate if the victim or victim's estate has received or is to receive full compensation for that
10 loss from the offender as a result of a civil proceeding.

11 (c) Any amount paid to a victim or victim's estate under a restitution order shall reduce
12 the amount payable to a victim or a victim's estate by an award from the Georgia Crime
13 Victims Compensation Board made prior to or after a restitution order under this article.

14 (d) The ordering authority shall order restitution be paid to the Georgia Crime Victims
15 Compensation Board, other governmental entities, or to any individuals, partnerships,
16 corporations, associations, or other legal entities acting on behalf of a governmental entity
17 that have compensated the victim or the victim's estate for a loss incurred by the victim to
18 the extent of the compensation paid for that loss. The ordering authority shall also order
19 restitution for the costs of services provided to persons or entities that have provided
20 services to the victim as a result of the crime. Services that are subject to restitution under
21 this subsection include, but are not limited to, shelter, food, clothing, and transportation.
22 However, a restitution order shall require that all restitution to a victim or victim's estate
23 under the restitution order be made before any restitution to any other person or entity
24 under that restitution order is made.

25 (e) In the event the ordering authority provides for a setoff or priority in terms of payment
26 of restitution, the ordering authority shall state on the record with specificity the reasons
27 for its action.

28 17-14-7.

29 (a) Any offender may offer a restitution plan to the ordering authority. If a plan is offered,
30 it shall be the duty of the ordering authority to consider the factors stated in Code Section
31 17-14-10 and to make the plan part of a restitution order if acceptable to the ordering
32 authority.

33 (b) If the parties have not agreed on the amount of restitution prior to sentencing, the
34 ordering authority shall set a date for a hearing to determine restitution. Any dispute as to
35 the proper amount or type of restitution shall be resolved by the ordering authority by the

1 preponderance of the evidence. The burden of demonstrating the amount of the loss
 2 sustained by a victim as a result of the offense shall be on the state. The burden of
 3 demonstrating the financial resources of the offender or person being ordered to pay
 4 restitution and the financial needs of his or her dependents shall be on the offender or
 5 person being ordered to pay restitution. The burden of demonstrating such other matters
 6 as the ordering authority deems appropriate shall be upon the party designated by the
 7 ordering authority as justice requires.

8 (c) If the ordering authority finds that more than one offender has contributed to the loss
 9 of a victim, the court may make each offender liable for payment of the full amount of
 10 restitution or may apportion liability among the offenders to reflect the level of contribution
 11 to the victim's loss and economic circumstances of each offender.

12 (d) If the ordering authority finds that more than one victim has sustained a loss requiring
 13 restitution by an offender, the court may provide for a different payment schedule for each
 14 victim based on the type and amount of each victim's loss and accounting for the economic
 15 circumstances of each victim. In any case in which the state or any of its political
 16 subdivisions is a victim and thus is due restitution, the ordering authority shall ensure that
 17 any other victim receives full restitution before the state or a political subdivision receives
 18 restitution.

19 (e) A victim may waive his or her right to obtain restitution pursuant to this chapter. Any
 20 such waiver shall be made in writing and filed with the court or ordering authority having
 21 jurisdiction over the criminal case. Such waiver shall not affect any other rights or remedies
 22 that the victim may have against the offender under the laws of this state or the United
 23 States or any of the several states.

24 17-14-8.

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

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

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

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

33 ~~or~~

34 ~~(4) That restitution will be ordered as a condition of the relief.~~

35 ~~(b) The failure to make a finding as required by this Code section, however, shall not~~
 36 ~~invalidate any order or other action of the ordering authority.~~

1 (a) In any case in which a court sentences an offender to pay restitution and a fine, if the
 2 court permits the offender to pay such restitution and fine in other than a lump sum, the
 3 clerk of any superior court of this state, probation officer or parole officer, or other official
 4 who receives such partial payments shall apply not less than one-half of each payment to
 5 the restitution before paying any portion of such fine or any forfeitures, costs, fees, or
 6 surcharges provided for by law to any agency, department, commission, committee,
 7 authority, board, or bureau of state or local government.

8 (b) The clerk of any court of this state, probation officer or parole officer, or other official
 9 who receives partial payments for restitution shall pay the restitution amount to the victim
 10 as provided in the restitution order not later than the last day of each month, provided that
 11 the amount exceeds \$100.00. If the amount does not exceed \$100.00, the clerk of any court
 12 of this state, probation officer or parole officer, or other official may allow the amount of
 13 restitution to accumulate until such time as it exceeds \$100.00 or until the end of the next
 14 calendar quarter, whichever occurs first.

15 17-14-9.

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

18 17-14-10.

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

21 (1) The ~~present financial condition~~ resources and other assets of the offender ~~and his~~
 22 ~~dependents~~ or person ordered to pay restitution including whether any of the assets are
 23 jointly controlled;

24 (2) The ~~probable future earning capacity of the offender and his dependents~~ earnings and
 25 other income of the offender or person ordered to pay restitution;

26 (3) Any financial obligations of the offender or person ordered to pay restitution,
 27 including obligations to dependents;

28 ~~(3)~~(4) The amount of damages;

29 ~~(4)~~(5) The goal of restitution to the victim and the goal of rehabilitation of the offender;

30 ~~(5)~~(6) Any restitution previously made;

31 ~~(6)~~(7) The period of time during which the restitution order will be in effect; and

32 ~~(7)~~(8) Other ~~appropriate~~ factors which the ordering authority deems to be appropriate.

33 (b) If, subsequent to restitution being ordered pursuant to this article, a victim is convicted
 34 of a crime for which restitution is ordered, the ordering authority shall consider the
 35 previously ordered restitution as part of the financial resources of such victim.

1 17-14-11.

2 An order for restitution shall not bar any civil action against the offender. However, any
3 payments made by an offender to a victim under an order for restitution may be a setoff
4 against any judgment awarded to the victim in a civil action based on the same facts for
5 which restitution was ordered. The fact of restitution or a restitution order under this article
6 shall not be placed before the jury on the issue of liability. If the amount of restitution made
7 is in dispute and liability is established, the court shall order further appropriate
8 proceedings to determine the amount of setoff.

9 17-14-12.

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

12 17-14-13.

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

15 (b) If an offender or other person ordered to pay restitution willfully refuses to comply
16 with a restitution order, the order, in the discretion of the court, may be enforced by
17 attachment for contempt, upon the application of the prosecuting attorney or the victim.

18 (c) Failure to comply with a restitution order may, in the discretion of the ordering
19 authority, be grounds to revoke or cancel the relief at any time the restitution order is in
20 effect. Where the relief is earned time allowances, the ~~department~~ Department of
21 Corrections may suspend the offender from earning earned time allowances for a specified
22 period of time.

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

26 17-14-14.

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

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

33 (c) Until such time as the restitution has been paid or the sentence has been completed, the
34 clerk of court or the probation or parole officer assigned to the case, whoever is responsible

1 for collecting restitution, shall review the case not less frequently than twice yearly to
 2 ensure that restitution is being paid as ordered. If the restitution was ordered to be made
 3 within a specific period of time, the case shall be reviewed at the end of the specific period
 4 of time to determine if the restitution has been paid in full. The final review shall be
 5 conducted before the sentence or probationary or parole period expires. If it is determined
 6 at any review that restitution is not being paid as ordered, a written report of the violation
 7 shall be filed with the court on a form prescribed by the Council of Superior Court Clerks
 8 of Georgia.

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

13 17-14-15.

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

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

19 17-14-16.

20 ~~This article shall not be construed to limit or abrogate any power of any court, agency, or~~
 21 ~~board to place other conditions, limits, terms, rules, or regulations on any relief in the~~
 22 ~~nature of suspension of sentence, probation, parole, pardon, or restoration of rights. If an~~
 23 ~~offender who is ordered to pay restitution under this article is remanded to the jurisdiction~~
 24 ~~of the Department of Corrections or the Department of Juvenile Justice, the court shall~~
 25 ~~provide a copy of the restitution order to such department when the offender is remanded~~
 26 ~~to such department's jurisdiction.~~

27 17-14-17.

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

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

31 (2) ~~'Victim' means any natural person against whom a crime specified in Chapter 7 or 8~~
 32 ~~of Title 16 has been committed.~~

33 (b) ~~Notwithstanding the provisions of Code Section 17-14-3, the judge of any court of~~
 34 ~~competent jurisdiction shall order that an adult offender, upon a conviction of any crime~~

1 specified in Chapter 7 or 8 of Title 16, make restitution to any victim as a condition of any
2 relief ordered by the court.

3 ~~(c) The amount of restitution ordered shall be equal to the unreimbursed or uncompensated
4 portion of the victim's damages.~~

5 ~~(d) For purposes of this Code section only, the court is not required to make any written
6 findings in accordance with Code Section 17-14-8 when ordering restitution; provided,
7 however, that a court may order a restitution plan in accordance with the provisions of
8 Code Sections 17-14-7 and 17-14-10.~~

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

11 (a) The state or the victim of a crime may institute an action against an offender pursuant
12 to Article 4 of Chapter 2 of Title 18, the 'Uniform Fraudulent Transfers Act,' to set aside
13 a transfer of real, personal, or other property made voluntarily by the offender on or after
14 the date of the crime committed by the offender against the victim with the intent to:

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

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

17 (3) Avoid the payment of restitution.

18 (b) Any such action shall be filed within four years of the date the crime was committed.

19 17-14-18.

20 If a person or entity entitled to restitution cannot be located or refuses to claim such
21 restitution within two years after the date on which he or she could have claimed such
22 restitution, the restitution paid to such person or entity shall be deposited in the Crime
23 Victims Emergency Fund created pursuant to Chapter 15 of Title 17 or its successor fund.
24 However, a person or entity entitled to such restitution may claim such restitution any time
25 within five years of the date on which he or she could have claimed such restitution by
26 applying in writing to Georgia Crime Victims Compensation Board. Upon receipt of such
27 application and verification that the person making the claim is in fact entitled to such
28 restitution, the Georgia Crime Victims Compensation Board shall pay such restitution to
29 the person or entity.

30 17-14-19.

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

SECTION 6.

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

"(b) A claim must be filed by the claimant not later than one year after the occurrence of the crime upon which such claim is based or not later than one year after the death of the victim; provided, however, that, upon good cause shown, the board may extend that time for filing for a period not exceeding ~~two~~ three years after such occurrence. Claims shall be filed in the office of the board in person or by mail."

SECTION 7.

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

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

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

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

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

SECTION 8.

This Act shall become effective on July 1, 2005.

SECTION 9.

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