

# HOUSE BILL REPORT

## HB 1278

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**As Reported By House Committee On:**  
Law & Justice

**Title:** An act relating to restitution.

**Brief Description:** Allowing courts to set restitution amounts at a later hearing.

**Sponsors:** Representatives Lambert, Mason, Costa, Delvin and Huff.

**Brief History:**

**Committee Activity:**

Law & Justice: 1/24/95, 2/10/95 [DPS].

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Padden, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Appelwick, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Campbell; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Robertson; Sheahan; Smith; Thibaudeau and Veloria.

**Staff:** Pat Shelledy (786-7149).

**Background:** When a criminal defendant is sentenced for a felony under the Sentencing Reform Act, the court may order restitution. The current law requires the court to set restitution at the sentencing hearing or within 60 days. A recent case held that failure to set restitution within the 60-day period forecloses the court's authority to set it at a later time. Consequently, some victims have not been entitled to receive restitution under the criminal judgment and sentence.

Section 1 of SHB 1047, as passed by the House Law and Justice Committee, extends the period in which the court must set restitution to 180 days from sentencing or at a later date for good cause. SHB 1047 does not specifically provide whether Section 1 applies retroactively to those cases in which a court did not set restitution and the current 60-day deadline has expired.

**Summary of Substitute Bill:** Section 1 of SHB 1047, as passed the House Law and Justice Committee, which amends the deadline for setting restitution in a criminal case, will apply retroactively if: (1) the court failed to set restitution within the 60-

day deadline; (2) the defendant was sentenced no more than 365 days prior to the effective date of Section 1 of SHB 1047 (which will be approximately July 24, 1995); and (3) the defendant is not unfairly prejudiced by the delay. In those cases courts may set restitution within 180 days of the effective date of Section 1 of SHB 1047 or at a later hearing for good cause. This bill will be null and void if Section 1 of SHB 1047 is not enacted.

**Substitute Bill Compared to Original Bill:** The substantive provisions of HB 1237, which are similar to SHB 1047, are deleted and replaced with a provision that Section 1 of SHB 1047, if passed, will apply retroactively in certain circumstances.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed. However, the bill is null and void unless SHB 1047 is enacted.

**Testimony For:** Given the recent court ruling regarding the 60-day deadline for setting restitution, some victims will not get restitution to which they are entitled. For example, in one case, a defendant who was incarcerated in prison refused to waive his presence at the restitution hearing. The defendant was not transported from prison to jail when the restitution hearing was set, so the court did not meet the deadline.

The Department of Corrections supervises the collection of restitution. Failure to set restitution within a certain time period may result in extending the period of time under which a defendant remains under the department's jurisdiction. If so, the delay will cost the taxpayers additional money for the cost of supervision. If the 60-day deadline is removed, a new one should be established.

**Testimony Against:** None.

**Testified:** Tom McBride, Washington Association of Prosecuting Attorneys and Law and Justice Roundtable (pro); and Dave Savage, Department of Corrections (pro with concerns).