

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1091 be amended to read as follows:

- 1 Page 1, delete lines 9 through 17, begin a new paragraph and insert:
- 2 "SECTION 2. IC 35-50-5-3, AS AMENDED BY P.L.173-2006,
- 3 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2012]: Sec. 3. (a) Except as provided in subsection (i), ~~or~~ (j),
- 5 **(l), or (m)**, in addition to any sentence imposed under this article for a
- 6 felony or misdemeanor, the court may, as a condition of probation or
- 7 without placing the person on probation, order the person to make
- 8 restitution to the victim of the crime, the victim's estate, or the family
- 9 of a victim who is deceased. The court shall base its restitution order
- 10 upon a consideration of:
- 11 (1) property damages of the victim incurred as a result of the
- 12 crime, based on the actual cost of repair (or replacement if repair
- 13 is inappropriate);
- 14 (2) medical and hospital costs incurred by the victim (before the
- 15 date of sentencing) as a result of the crime;
- 16 (3) the cost of medical laboratory tests to determine if the crime
- 17 has caused the victim to contract a disease or other medical
- 18 condition;
- 19 (4) earnings lost by the victim (before the date of sentencing) as
- 20 a result of the crime including earnings lost while the victim was
- 21 hospitalized or participating in the investigation or trial of the
- 22 crime; and
- 23 (5) funeral, burial, or cremation costs incurred by the family or
- 24 estate of a homicide victim as a result of the crime.

1 (b) A restitution order under subsection (a), ~~or (i), or (j), (l), or (m)~~,
2 is a judgment lien that:

- 3 (1) attaches to the property of the person subject to the order;
4 (2) may be perfected;
5 (3) may be enforced to satisfy any payment that is delinquent
6 under the restitution order by the person in whose favor the order
7 is issued or the person's assignee; and
8 (4) expires;

9 in the same manner as a judgment lien created in a civil proceeding.

10 (c) When a restitution order is issued under subsection (a), the
11 issuing court may order the person to pay the restitution, or part of the
12 restitution, directly to:

13 (1) the victim services division of the Indiana criminal justice
14 institute in an amount not exceeding:

15 (A) the amount of the award, if any, paid to the victim under
16 IC 5-2-6.1; and

17 (B) the cost of the reimbursements, if any, for emergency
18 services provided to the victim under IC 16-10-1.5 (before its
19 repeal) or IC 16-21-8; or

20 (2) a probation department that shall forward restitution or part of
21 restitution to:

22 (A) a victim of a crime;

23 (B) a victim's estate; or

24 (C) the family of a victim who is deceased.

25 The victim services division of the Indiana criminal justice institute
26 shall deposit the restitution it receives under this subsection in the
27 violent crime victims compensation fund established by IC 5-2-6.1-40.

28 (d) When a restitution order is issued under subsection (a), (i), ~~or (j)~~,
29 **(l), or (m)**, the issuing court shall send a certified copy of the order to
30 the clerk of the circuit court in the county where the felony or
31 misdemeanor charge was filed. The restitution order must include the
32 following information:

33 (1) The name and address of the person that is to receive the
34 restitution.

35 (2) The amount of restitution the person is to receive.

36 Upon receiving the order, the clerk shall enter and index the order in
37 the circuit court judgment docket in the manner prescribed by
38 IC 33-32-3-2. The clerk shall also notify the department of insurance
39 of an order of restitution under subsection (i).

40 (e) An order of restitution under subsection (a), (i), ~~or (j)~~, **(l), or**
41 **(m)**, does not bar a civil action for:

42 (1) damages that the court did not require the person to pay to the
43 victim under the restitution order but arise from an injury or
44 property damage that is the basis of restitution ordered by the
45 court; and

46 (2) other damages suffered by the victim.

1 (f) Regardless of whether restitution is required under subsection (a)
2 as a condition of probation or other sentence, the restitution order is not
3 discharged by the completion of any probationary period or other
4 sentence imposed for a felony or misdemeanor.

5 (g) A restitution order under subsection (a), (i), ~~or (j)~~, **(l), or (m)**, is
6 not discharged by the liquidation of a person's estate by a receiver
7 under IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, IC 34-48-6,
8 IC 34-1-12, or IC 34-2-7 before their repeal).

9 (h) The attorney general may pursue restitution ordered by the court
10 under subsections (a) and (c) on behalf of the victim services division
11 of the Indiana criminal justice institute established under IC 5-2-6-8.

12 (i) The court may order the person convicted of an offense under
13 IC 35-43-9 to make restitution to the victim of the crime. The court
14 shall base its restitution order upon a consideration of the amount of
15 money that the convicted person converted, misappropriated, or
16 received, or for which the convicted person conspired. The restitution
17 order issued for a violation of IC 35-43-9 must comply with
18 subsections (b), (d), (e), and (g), and is not discharged by the
19 completion of any probationary period or other sentence imposed for
20 a violation of IC 35-43-9.

21 (j) The court may order the person convicted of an offense under
22 IC 35-43-5-3.5 to make restitution to the victim of the crime, the
23 victim's estate, or the family of a victim who is deceased. The court
24 shall base its restitution order upon a consideration of the amount of
25 fraud or harm caused by the convicted person and any reasonable
26 expenses (including lost wages) incurred by the victim in correcting the
27 victim's credit report and addressing any other issues caused by the
28 commission of the offense under IC 35-43-5-3.5. If, after a person is
29 sentenced for an offense under IC 35-43-5-3.5, a victim, a victim's
30 estate, or the family of a victim discovers or incurs additional expenses
31 that result from the convicted person's commission of the offense under
32 IC 35-43-5-3.5, the court may issue one (1) or more restitution orders
33 to require the convicted person to make restitution, even if the court
34 issued a restitution order at the time of sentencing. For purposes of
35 entering a restitution order after sentencing, a court has continuing
36 jurisdiction over a person convicted of an offense under IC 35-43-5-3.5
37 for five (5) years after the date of sentencing. Each restitution order
38 issued for a violation of IC 35-43-5-3.5 must comply with subsections
39 (b), (d), (e), and (g), and is not discharged by the completion of any
40 probationary period or other sentence imposed for an offense under
41 IC 35-43-5-3.5.

42 (k) The court shall order a person convicted of an offense under
43 IC 35-42-3.5 to make restitution to the victim of the crime in an amount
44 equal to the greater of the following:

45 (1) The gross income or value to the person of the victim's labor
46 or services.

- 1 (2) The value of the victim's labor as guaranteed under the
 - 2 minimum wage and overtime provisions of:
 - 3 (A) the federal Fair Labor Standards Act of 1938, as amended
 - 4 (29 U.S.C. 201-209); or
 - 5 (B) IC 22-2-2 (Minimum Wage);
 - 6 whichever is greater.
 - 7 **(l) The court shall order a person who:**
 - 8 **(1) is convicted of dealing in methamphetamine under**
 - 9 **IC 35-48-4-1.1(a)(1)(A); and**
 - 10 **(2) manufactured the methamphetamine on property owned**
 - 11 **by another person, without the consent of the property owner;**
 - 12 **to pay liquidated damages to the property owner in the amount of**
 - 13 **ten thousand dollars (\$10,000).**
 - 14 **(m) The court shall order a person who:**
 - 15 **(1) is convicted of dealing in marijuana under**
 - 16 **IC 35-48-4-10(a)(1)(A); and**
 - 17 **(2) manufactured the marijuana on property owned by**
 - 18 **another person, without the consent of the property owner;**
 - 19 **to pay liquidated damages to the property owner in the amount of**
 - 20 **two thousand dollars (\$2,000)."**
 - 21 Delete page 2.
 - 22 Renumber all SECTIONS consecutively.
- (Reference is to HB 1091 as reprinted January 14, 2012.)

Representative Friend