

SENATE BILL NO. 338
INTRODUCED BY MAZUREK

IN THE SENATE

FEBRUARY 4, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 13, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 14, 1989	PRINTING REPORT.
FEBRUARY 15, 1989	SECOND READING, DO PASS AS AMENDED.
FEBRUARY 16, 1989	ENGROSSING REPORT.
FEBRUARY 17, 1989	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 20, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 8, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 10, 1989	PASSED CONSIDERATION UNTIL 58TH LEGISLATIVE DAY.
MARCH 14, 1989	SECOND READING, CONCURRED IN AS AMENDED.
MARCH 16, 1989	THIRD READING, CONCURRED IN. AYES, 94; NOES, 2.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 1, 1989

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 4, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. 338
2 INTRODUCED BY *Thompson*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO VICTIM
5 RESTITUTION; AUTHORIZING THE CREATION OF A COUNTY
6 RESTITUTION FUND CONSISTING OF RESTITUTION PAYMENTS MADE TO
7 VICTIMS WHOSE LOCATIONS ARE UNKNOWN; PROVIDING THAT THE FUND
8 BE USED TO MAKE RESTITUTION PAYMENTS TO VICTIMS ON BEHALF OF
9 OFFENDERS WHO PERFORM COMMUNITY SERVICE WORK; AUTHORIZING A
10 HANDLING FEE NOT TO EXCEED \$5 PER SUPERVISED RESTITUTION
11 PAYMENT; AND AMENDING SECTION 46-18-245, MCA."
12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14 NEW SECTION. **Section 1.** Victim's location unknown --
15 payments to restitution fund -- use of restitution fund. (1)
16 If the location of a victim on whose behalf restitution is
17 being paid is unknown, the district court may order that
18 restitution payments made on that victim's behalf be
19 deposited in a fund known as the county restitution fund.
20 Subject to the availability of money in the fund, if the
21 whereabouts of a victim whose restitution payments were
22 deposited in the county restitution fund become known, the
23 county shall refund to the victim payments that were
24 deposited in the fund.
25 (2) Money in the restitution fund may be used to



Montana Legislative Council

1 provide payments on behalf of offenders who are ordered to
2 pay restitution but, due to circumstances beyond their
3 control, are unable to obtain employment or are unable to
4 obtain employment sufficient to make restitution payments
5 and sustain themselves and their dependents. The offender
6 may perform community service, and for each hour of
7 community service performed, the victim shall receive an
8 amount equal to the minimum hourly wage from the county
9 restitution fund. A district court judge may order an
10 offender to perform community service work for restitution
11 payments upon a finding that the offender would not
12 otherwise be able to make restitution payments and that
13 there are funds available in the county restitution fund for
14 payments to the victim.

15 **Section 2.** Section 46-18-245, MCA, is amended to read:

16 **"46-18-245. Supervision of payment -- handling fee.**

17 **(1) The court may order a probation officer, restitution**

18 **officer, or other designated person to supervise the making**

19 **of restitution and to report to the court any default in**

20 **payment.**

21 **(2) The person supervising the making of restitution**

22 **may charge the offender a handling fee, not exceeding \$5,**

23 **which is in addition to each payment. The handling fee must**

24 **be paid into a special revenue fund designated for**

25 **restitution in the county general fund."**

-End-

-2-

INTRODUCED BILL
SB 338

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB338, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

SB338 would authorize creation of a county restitution fund consisting of payments ordered by the district court when the location of a victim on whose behalf restitution is being paid is unknown; provide for refund of victim payments if whereabouts become known and also for payments to other victims on behalf of offenders who perform community service work; and authorize a handling fee not to exceed \$5 per supervised payment.

ASSUMPTIONS:

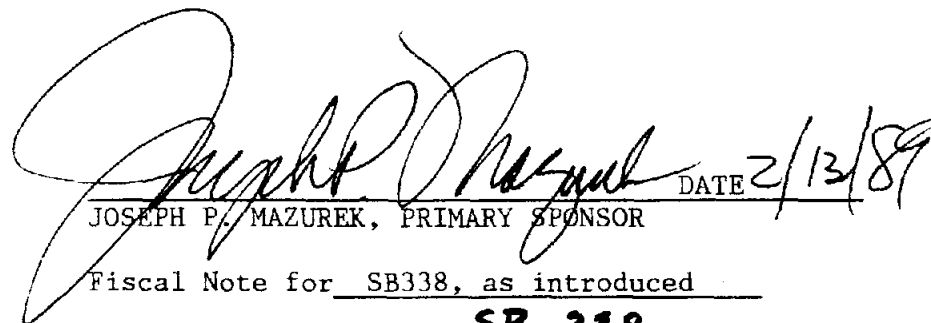
1. There is no fiscal impact on the Department of Justice, the Supreme Court or District Court Programs, or the Department of Commerce.
2. There is no known state fiscal impact.

TECHNICAL NOTES:

The Department of Justice will seek an amendment to ensure that the state will be reimbursed for any payments it made on behalf of victims, pursuant to Title 53, chapter 9, before money is used in the county restitution fund.

DATE 2/11/89

RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE 2/13/89

JOSEPH P. MAZUREK, PRIMARY SPONSOR

Fiscal Note for SB338, as introduced**SB 338**

APPROVED BY COMMITTEE
ON JUDICIARY

SENATE BILL NO. 338

INTRODUCED BY MAZUREK

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO VICTIM
RESTITUTION; AUTHORIZING THE CREATION OF A COUNTY
RESTITUTION FUND CONSISTING OF RESTITUTION PAYMENTS MADE TO
VICTIMS WHOSE LOCATIONS ARE UNKNOWN; PROVIDING THAT THE FUND
BE USED TO MAKE RESTITUTION PAYMENTS TO VICTIMS ON BEHALF OF
OFFENDERS WHO PERFORM COMMUNITY SERVICE WORK; AUTHORIZING A
HANDLING FEE NOT TO EXCEED \$5 PER SUPERVISED RESTITUTION
PAYMENT; AND AMENDING SECTION 46-18-245, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Victim's location unknown --
payments to restitution fund -- use of restitution fund. (1)
If the location of a victim on whose behalf restitution is
being paid is unknown, the district court may order that
restitution payments made on that victim's behalf be
deposited in a fund known as the county restitution fund.
Subject to the availability of money in the fund, if the
whereabouts of a victim whose restitution payments were
deposited in the county restitution fund become known, the
county shall refund to the victim payments that were
deposited in the fund.

(2) Money in the restitution fund may be used to

provide payments on behalf of offenders who are ordered to
pay restitution but, due to circumstances beyond their
control, are unable to obtain employment or are unable to
obtain employment sufficient to make restitution payments
and sustain themselves and their dependents. The offender
may perform community service, and for each hour of
community service performed, the victim shall receive an
amount equal to the minimum hourly wage from the county
restitution fund. A district--court judge may order an
offender to perform community service work for restitution
payments upon a finding that the offender would not
otherwise be able to make restitution payments and that
there are funds available in the county restitution fund for
payments to the victim.

(3) MONEYS IN THE COUNTY RESTITUTION FUND THAT ARE DUE
TO A VICTIM UNDER THIS PART MUST BE PAID TO THE CRIME
VICTIMS COMPENSATION ACCOUNT, AS DEFINED IN 53-9-109, IF
PAYMENTS HAVE BEEN MADE TO OR ON BEHALF OF THE VICTIM FROM
THE ACCOUNT. PAYMENT FROM THE COUNTY RESTITUTION FUND TO THE
CRIME VICTIMS COMPENSATION ACCOUNT MAY BE MADE ONLY FROM
MONEYS PAID BY THE OFFENDER WHO CAUSED THE INJURY OR DEATH
THAT RESULTED IN THE PAYMENT FROM THE ACCOUNT.

Section 2. Section 46-18-245, MCA, is amended to read:**"46-18-245. Supervision of payment -- handling fee.****(1) The court may order a probation officer, restitution**

SB 0338/02

1 officer, or other designated person to supervise the making
2 of restitution and to report to the court any default in
3 payment.

4 (2) The person supervising the making of restitution
5 may charge the offender a handling fee, not exceeding \$5,
6 which is in addition to each payment. The handling fee must
7 be paid into a special revenue fund designated for
8 restitution in the county general fund."

-End-

SENATE BILL NO. 338

INTRODUCED BY MAZUREK

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO VICTIM RESTITUTION; AUTHORIZING THE CREATION OF A COUNTY RESTITUTION FUND CONSISTING OF RESTITUTION PAYMENTS MADE TO VICTIMS WHOSE LOCATIONS ARE UNKNOWN; PROVIDING THAT THE FUND BE USED TO MAKE RESTITUTION PAYMENTS TO VICTIMS ON BEHALF OF OFFENDERS WHO PERFORM COMMUNITY SERVICE WORK; AUTHORIZING A HANDLING FEE NOT TO EXCEED \$5 PER SUPERVISED RESTITUTION PAYMENT; AND AMENDING SECTION 46-18-245, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Victim's location unknown -- payments to restitution fund -- use of restitution fund. (1) If the location of a victim on whose behalf restitution is being paid is unknown, the district court may order that restitution payments made on that victim's behalf be deposited in a fund known as the county restitution fund. Subject to the availability of money in the fund, if the whereabouts of a victim whose restitution payments were deposited in the county restitution fund become known, the county shall refund to the victim payments that were deposited in the fund.

(2) Money in the restitution fund may be used to

provide payments on behalf of offenders who are ordered to pay restitution but, due to circumstances beyond their control, are unable to obtain employment or are unable to obtain employment sufficient to make restitution payments and sustain themselves and their dependents. The offender may perform community service, and for each hour of community service performed, the victim shall receive an amount equal to the minimum hourly wage from the county restitution fund. A district--court judge may order an offender to perform community service work for restitution payments upon a finding that the offender would not otherwise be able to make restitution payments and that there are funds available in the county restitution fund for payments to the victim.

(3) MONEYS IN THE COUNTY RESTITUTION FUND THAT ARE DUE TO A VICTIM UNDER THIS PART MUST BE PAID TO THE CRIME VICTIMS COMPENSATION ACCOUNT, AS DEFINED IN 53-9-109, IF PAYMENTS HAVE BEEN MADE TO OR ON BEHALF OF THE VICTIM FROM THE ACCOUNT. PAYMENT FROM THE COUNTY RESTITUTION FUND TO THE CRIME VICTIMS COMPENSATION ACCOUNT MAY BE MADE ONLY FROM MONEYS PAID BY THE OFFENDER WHO CAUSED THE INJURY OR DEATH THAT RESULTED IN THE PAYMENT FROM THE ACCOUNT.

Section 2. Section 46-18-245, MCA, is amended to read:

"46-18-245. Supervision of payment -- handling fee.

(1) The court may order a probation officer, restitution



1 officer, or other designated person to supervise the making
2 of restitution and to report to the court any default in
3 payment.

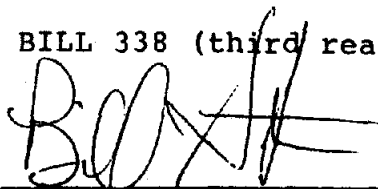
4 (2) The person supervising the making of restitution
5 may charge the offender a handling fee, not exceeding \$5,
6 which is in addition to each payment. The handling fee must
7 be paid into a special revenue fund ACCOUNT designated for
8 restitution in the county general fund OR DISTRICT COURT
9 FUND."

-End-

COMMITTEE OF THE WHOLE AMENDMENT
SENATE BILL 338
Representative Bill Strizich

March 14, 1989 12:11 pm
Page 1 of 1

Mr. Chairman: I move to amend SENATE BILL 338 (third reading copy -- blue).


Signed: 
Representative Bill Strizich

And, that such amendments to SENATE BILL 338 read as follows:

1. Title, line 9.
Following: "WORK" on line 9
Strike: ";" on line 9 through "MCA" on line 11
2. Page 2, line 23 through page 3, line 9.
Strike: Section 2 in its entirety.

ADOPT

REJECT

HOUSE 
SB 338

SENATE BILL NO. 338

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VICTIMS WHOSE LOCATIONS ARE UNKNOWN; AND PROVIDING THAT THE
FUND BE USED TO MAKE RESTITUTION PAYMENTS TO VICTIMS ON
BEHALF OF OFFENDERS WHO PERFORM COMMUNITY SERVICE WORK;
~~AUTHORIZING A HANDLING FEE NOT TO EXCEED \$5 PER SUPERVISED
RESTITUTION PAYMENT, AND AMENDING SECTION 46-18-245, MCA."~~

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~~Section 2. Section 46-18-245, MCA, is amended to read:~~

~~"46-18-245. Supervision of payment --- handling fee-~~

~~{i} The court may order a probation officer, restitution~~



SB 0338/04

1 officer, or other designated person to supervise the making
2 of restitution and to report to the court any default in
3 payment.
4 {2}--The person supervising the making of restitution
5 may charge the offender a handling fee, not exceeding \$5,
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7 be paid into a special revenue fund ACCOUNT designated for
8 restitution in the county general fund OR DISTRICT COURT
9 FUND."

-End-