

**Senate File 2374 - Introduced**

SENATE FILE 2374  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 2244)

**A BILL FOR**

1 An Act relating to restitution ordered in a criminal proceeding  
2 and court debt.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 356.7, subsection 2, paragraph i, Code  
2 2020, is amended by striking the paragraph.

3 Sec. 2. Section 356.7, subsection 4, Code 2020, is amended  
4 by striking the subsection and inserting in lieu thereof the  
5 following:

6 4. A claim for reimbursement shall be filed in a separate  
7 civil action rather than as a claim in the underlying criminal  
8 case.

9 Sec. 3. Section 602.8105, subsection 1, Code 2020, is  
10 amended by adding the following new paragraph:

11 NEW PARAGRAPH. *k.* For a civil claim for reimbursement under  
12 section 356.7, zero dollars.

13 Sec. 4. Section 602.8107, subsection 1, paragraph a, Code  
14 2020, is amended by striking the paragraph and inserting in  
15 lieu thereof the following:

16 *a.* "*Court debt*" means all restitution, fees, and forfeited  
17 bail.

18 Sec. 5. Section 602.8107, subsection 2, paragraphs b and c,  
19 Code 2020, are amended to read as follows:

20 *b.* (1) If Except as provided in subparagraph (2), if a case  
21 number is not identified, the clerk shall apply the payment to  
22 the balance owed in the criminal case with the oldest judgment  
23 against the person.

24 (2) The clerk shall apply payments to pecuniary damages  
25 in other criminal cases when no case number is identified in  
26 priority order from the oldest judgment to the most recent  
27 judgment before applying payments to any other court debt.

28 *c.* Payments received under [this section](#) shall be applied in  
29 the following priority order:

30 (1) Pecuniary damages as defined in section 910.1,  
31 subsection 3.

32 (2) Fines or penalties and criminal penalty and law  
33 enforcement initiative surcharges.

34 (3) Crime victim compensation program reimbursement.

35 (4) Court costs, ~~including correctional fees assessed~~

1 ~~pursuant to sections 356.7 and 904.108~~, court-appointed  
2 attorney fees, or public defender expenses.

3 Sec. 6. Section 602.8107, subsection 4, paragraph a, Code  
4 2020, is amended to read as follows:

5 a. This subsection does not apply to amounts collected for  
6 ~~victim~~ restitution involving pecuniary damages, the victim  
7 compensation fund, the criminal penalty surcharge, sex offender  
8 civil penalty, drug abuse resistance education surcharge,  
9 the law enforcement initiative surcharge, county enforcement  
10 surcharge, or amounts collected as a result of procedures  
11 initiated under subsection 5 or under section 8A.504, ~~or fees~~  
12 ~~charged pursuant to section 356.7~~.

13 Sec. 7. Section 909.3, subsection 1, Code 2020, is amended  
14 to read as follows:

15 1. All Unless a plan of payment has been issued pursuant to  
16 chapter 910, fines imposed by the court shall be paid on the  
17 day the fine is imposed, and the person shall be instructed to  
18 pay such fines with the office of the clerk of the district  
19 court on the date of imposition.

20 Sec. 8. Section 910.1, subsection 4, Code 2020, is amended  
21 by striking the subsection and inserting in lieu thereof the  
22 following:

23 4. "*Restitution*" means pecuniary damages, category "A"  
24 restitution, and category "B" restitution.

25 Sec. 9. Section 910.1, Code 2020, is amended by adding the  
26 following new subsections:

27 NEW SUBSECTION. 01. "*Category "A" restitution*" means fines,  
28 penalties, and surcharges.

29 NEW SUBSECTION. 001. "*Category "B" restitution*" means  
30 the contribution of funds to a local anticrime organization  
31 which provided assistance to law enforcement in an offender's  
32 case, the payment of crime victim compensation program  
33 reimbursements, payment of restitution to public agencies  
34 pursuant to section 321J.2, subsection 13, paragraph "b",  
35 court costs, court-appointed attorney fees ordered pursuant to

1 section 815.9, including the expense of a public defender, and  
2 payment to the medical assistance program pursuant to chapter  
3 249A for expenditures paid on behalf of the victim resulting  
4 from the offender's criminal activities including investigative  
5 costs incurred by the Medicaid fraud control unit pursuant to  
6 section 249A.50.

7 NEW SUBSECTION. 1A. "*Financial affidavit*" means a signed  
8 affidavit under penalty of perjury that provides financial  
9 information about the offender to enable the sentencing court  
10 or the department of corrections to make a determination  
11 regarding the ability of the offender to pay category "B"  
12 restitution. "*Financial affidavit*" includes the offender's  
13 income, physical and mental health, age, education, employment,  
14 inheritance, other debts, other amounts of restitution owed,  
15 family circumstances, and any assets subject to execution,  
16 including but not limited to cash, accounts at financial  
17 institutions, stocks, bonds, and any other property which may  
18 be applied to the satisfaction of judgments.

19 NEW SUBSECTION. 3A. "*Permanent restitution order*" means an  
20 order entered when the court is able to order the full amount  
21 of restitution, either at the time of sentencing or at a later  
22 date to be determined by the court.

23 NEW SUBSECTION. 3B. "*Plan of payment*" or "*restitution plan*  
24 *of payment*" means a plan for paying restitution wherein the  
25 defendant is ordered to pay a certain amount of money each  
26 month to repay outstanding restitution.

27 NEW SUBSECTION. 3C. "*Plan of restitution*" means a temporary  
28 restitution order, permanent restitution order, restitution  
29 plan of payment, any other court order relating to restitution,  
30 or any combination of the foregoing.

31 NEW SUBSECTION. 4A. "*Temporary restitution order*" means  
32 an order entered when the sentencing court is unable to order  
33 the full amount of restitution, whether due to incomplete  
34 statements of pecuniary damages, incomplete statements  
35 involving other restitution, or for any other cause.

1     Sec. 10. Section 910.2, Code 2020, is amended by striking  
2 the section and inserting in lieu thereof the following:

3     **910.2 Restitution or community service ordered by sentencing**  
4 **court.**

5     1. *a.* In all criminal cases in which there is a plea of  
6 guilty, verdict of guilty, or special verdict upon which a  
7 judgment of conviction is rendered, the sentencing court shall  
8 order that pecuniary damages be paid by each offender to the  
9 victims of the offender's criminal activities, and that all  
10 other restitution be paid to the clerk of court subject to the  
11 following:

12     (1) Pecuniary damages and category "A" restitution shall be  
13 ordered without regard to an offender's reasonable ability to  
14 make payments.

15     (2) Category "B" restitution shall be ordered subject to  
16 an offender's reasonable ability to make payments pursuant to  
17 section 910.2A.

18     *b.* Pecuniary damages shall be paid to victims in full before  
19 category "A" and category "B" restitution are paid.

20     *c.* In structuring a plan of restitution, the plan of payment  
21 shall provide for payments in the following order of priority:

22     (1) Pecuniary damages to the victim.

23     (2) Category "A" restitution.

24     (3) Category "B" restitution in the following order:

25     (a) Crime victim compensation program reimbursement.

26     (b) Public agencies.

27     (c) Court costs.

28     (d) Court-appointed attorney fees ordered pursuant to  
29 section 815.9, including the expense of a public defender.

30     (e) Contribution to a local anticrime organization.

31     (f) The medical assistance program.

32     2. *a.* When the offender is not reasonably able to pay  
33 all or a part of category "B" restitution, the court may  
34 require the offender in lieu of that portion of category "B"  
35 restitution for which the offender is not reasonably able to

1 pay, to perform a needed public service for a governmental  
2 agency or for a private nonprofit agency which provides a  
3 service to the youth, elderly, or poor of the community.

4 *b.* When community service is ordered, the court shall set  
5 a specific number of hours of service to be performed by the  
6 offender. When calculating the amount of community service to  
7 be performed in lieu of payment of court-appointed attorney  
8 fees, the court shall determine the approximate equivalent  
9 value of the expenses of the public defender. The judicial  
10 district department of correctional services shall provide for  
11 the assignment of the offender to a public agency or private  
12 nonprofit agency to perform the required service.

13 **Sec. 11. NEW SECTION. 910.2A Reasonable ability to pay —**  
14 **category "B" restitution payments.**

15 1. An offender is presumed to have the reasonable ability  
16 to make restitution payments for the full amount of category  
17 "B" restitution.

18 2. If an offender requests that the court determine the  
19 amount of category "B" restitution payments the offender is  
20 reasonably able to make toward paying the full amount of such  
21 restitution, the court shall hold a hearing and make such a  
22 determination, subject to the following provisions:

23 *a.* To obtain relief at such a hearing, the offender must  
24 affirmatively prove by a preponderance of the evidence that the  
25 offender is unable to reasonably make payments toward the full  
26 amount of category "B" restitution.

27 *b.* The offender must furnish the prosecuting attorney and  
28 sentencing court with a completed financial affidavit. Failure  
29 to furnish a completed financial affidavit waives any claim  
30 regarding the offender's reasonable ability to pay.

31 *c.* The prosecuting attorney, the attorney for the defendant,  
32 and the court shall be permitted to question the offender  
33 regarding the offender's reasonable ability to pay.

34 *d.* Based on the evidence offered at the hearing, including  
35 but not limited to the financial affidavit, the court shall

1 determine the amount of category "B" restitution the offender  
2 is reasonably able to make payments toward, and order the  
3 offender to make payments toward that amount.

4 3. a. If an offender does not make a request as provided in  
5 subsection 2 at the time of sentencing or within thirty days  
6 after the court issues a permanent restitution order, the court  
7 shall order the offender to pay the full amount of category "B"  
8 restitution.

9 b. An offender's failure to request a determination  
10 pursuant to this section waives all future claims regarding  
11 the offender's reasonable ability to pay, except as provided  
12 by section 910.7.

13 4. If a court finds an offender is not reasonably able  
14 to make payments toward the full amount of category "B"  
15 restitution, the offender's financial affidavit shall be  
16 filed of record in all criminal cases for which the offender  
17 owes restitution and the affidavit shall be accessible by a  
18 prosecuting attorney or attorney for the offender without court  
19 order or appearance.

20 5. A court that makes a determination under this section is  
21 presumed to have properly exercised its discretion. A court is  
22 not required to state its reasons for making a determination.

23 Sec. 12. Section 910.3, Code 2020, is amended to read as  
24 follows:

25 **910.3 Determination of amount of restitution.**

26 1. The ~~county~~ prosecuting attorney shall prepare a  
27 statement of pecuniary damages to victims of the defendant  
28 and, if applicable, any award by the crime victim compensation  
29 program and expenses incurred by public agencies pursuant to  
30 section 321J.2, subsection 13, paragraph "b", and shall provide  
31 the statement to the presentence investigator or submit the  
32 statement to the court at the time of sentencing.

33 2. The clerk of court shall prepare a statement of  
34 court-appointed attorney fees ordered pursuant to section  
35 815.9, including the expense of a public defender, and court

1 ~~costs including correctional fees claimed by a sheriff or~~  
2 ~~municipality pursuant to section 356.7,~~ which shall be provided  
3 to the presentence investigator or submitted to the court at  
4 the time of sentencing.

5 3. If ~~these the~~ statements in subsection 1 or 2 are provided  
6 to the presentence investigator, they shall become a part of  
7 the presentence report.

8 4. If pecuniary damage amounts are not available or are  
9 incomplete at the time of sentencing, the ~~county~~ prosecuting  
10 attorney shall provide a statement of pecuniary damages  
11 incurred up to that time to the clerk of court.

12 5. The statement of pecuniary damages shall ordinarily be  
13 provided no later than thirty days after sentencing. However,  
14 a prosecuting attorney may file a statement of pecuniary  
15 damages within a reasonable time after the prosecuting attorney  
16 is notified by a victim of any pecuniary damages incurred.

17 6. If a defendant believes no person suffered pecuniary  
18 damages, the defendant shall so state.

19 7. If the defendant has any mental or physical impairment  
20 which would limit or prohibit the performance of a public  
21 service, the defendant shall so state. The court may order a  
22 mental or physical examination, or both, of the defendant to  
23 determine a proper course of action. ~~At the time of sentencing~~  
24 ~~or at a later date to be determined by the court,~~

25 8. If the full amount of restitution is known at the time of  
26 sentencing, the court shall ~~set~~ enter a permanent restitution  
27 order setting out the amount of restitution including the  
28 amount of public service to be performed as restitution and  
29 the persons to whom restitution must be paid. A permanent  
30 restitution order entered at the time of sentencing is part of  
31 the final judgment of sentence as defined in section 814.6 and  
32 may be considered in a properly perfected appeal.

33 9. If the full amount of restitution cannot be determined  
34 at the time of sentencing, the court shall issue a temporary  
35 restitution order determining a reasonable amount for



1 restitution identified up to that time. A temporary  
2 restitution order is not part of the final judgment of sentence  
3 as defined in section 814.6 and is not an appealable order,  
4 except by writ of certiorari as provided by section 910.7.

5 At a later date as determined by the court, the court shall  
6 issue a permanent, ~~supplemental~~ restitution order, setting the  
7 full amount of restitution. ~~The court shall enter further~~  
8 ~~supplemental orders, if necessary. These court orders shall be~~  
9 ~~known as the plan of restitution.~~

10 10. A permanent restitution order may be superseded by  
11 subsequent orders if additional or different restitution is  
12 ordered.

13 Sec. 13. Section 910.4, subsection 1, paragraph b,  
14 subparagraphs (1) and (2), Code 2020, are amended to read as  
15 follows:

16 (1) If the court extends the period of probation, the period  
17 of probation shall not be for more than the maximum period of  
18 probation for the offense committed except for an extension of  
19 a period of probation as authorized in [section 907.7](#). After  
20 discharge from probation or after the expiration of the period  
21 of probation, as extended if applicable, the failure of an  
22 offender to comply with the plan of restitution ~~ordered by the~~  
23 ~~court~~ shall constitute contempt of court.

24 (2) If an offender's probation is revoked, the offender's  
25 assigned probation officer shall forward to the director of  
26 the Iowa department of corrections, all known information  
27 concerning the offender's restitution ~~plan, restitution plan of~~  
28 ~~payment, the restitution payment balance~~ obligations, including  
29 but not limited to the plan of restitution, and any other  
30 pertinent information concerning or affecting restitution by  
31 the offender.

32 Sec. 14. Section 910.4, subsections 2 and 3, Code 2020, are  
33 amended to read as follows:

34 2. When the offender is committed to a county jail, or to  
35 an alternate facility, the office or individual charged with

1 supervision of the offender shall prepare a restitution plan  
2 of payment ~~taking into consideration the offender's income,~~  
3 ~~physical and mental health, age, education, employment and~~  
4 ~~family circumstances~~ and shall submit the plan to the court.

5 ~~a. The office or individual charged with supervision of the~~  
6 ~~offender shall review the plan of restitution ordered by the~~  
7 ~~court, and shall submit a restitution plan of payment to the~~  
8 ~~sentencing court.~~

9 ~~b.~~ a. When community service is ordered by the court as  
10 restitution, the restitution plan of payment shall set out a  
11 plan to meet the requirement for the community service.

12 ~~c. The court may approve or modify the plan of restitution~~  
13 ~~and restitution plan of payment.~~

14 ~~d.~~ b. When there is a significant change in the offender's  
15 income or circumstances, the office or individual which has  
16 supervision of the restitution plan of payment shall submit a  
17 modified ~~restitution~~ plan of payment to the court.

18 3. a. When there is a transfer of supervision from one  
19 office or individual charged with supervision of the offender  
20 to another, the sending office or individual shall forward to  
21 the receiving office or individual all necessary information  
22 regarding the balance owed against the original amount of  
23 restitution ordered and the balance of public service required.

24 b. ~~When~~ If there has been a significant change in the  
25 offender's circumstances and or ~~income have significantly~~  
26 ~~changed,~~ the receiving office or individual shall submit a  
27 new restitution plan of payment to the sentencing court ~~for~~  
28 ~~approval or modification based on the considerations enumerated~~  
29 ~~in this section.~~

30 Sec. 15. Section 910.4, Code 2020, is amended by adding the  
31 following new subsection:

32 NEW SUBSECTION. 4. Notwithstanding any other provision  
33 in this chapter, the plan of payment shall be based on all  
34 information pertinent to the offender's reasonable ability to  
35 pay. The first monthly payment under such a plan shall be made

1 within thirty days of the approval of the plan.

2 Sec. 16. Section 910.6, Code 2020, is amended to read as  
3 follows:

4 **910.6 Payment plan — copy to victims.**

5 An office or individual preparing a restitution plan of  
6 payment or modified ~~restitution plan of payment, when it is~~  
7 ~~approved by the court if approval is required under section~~  
8 ~~910.4, or when the plan is completed if court approval~~  
9 ~~under section 910.4 is not required,~~ shall forward a copy to  
10 the clerk of court in the county in which the offender was  
11 sentenced. The clerk of court shall forward a copy of the  
12 restitution plan of payment or modified plan of payment to the  
13 victim or victims.

14 Sec. 17. Section 910.7, subsections 1 and 3, Code 2020, are  
15 amended to read as follows:

16 1. At any time during the period of probation, parole, or  
17 incarceration, the offender, the prosecuting attorney, or the  
18 office or individual who prepared the offender's restitution  
19 plan may petition the court on any matter related to the plan  
20 of restitution or restitution plan of payment and the court  
21 shall grant a hearing if on the face of the petition it appears  
22 that a hearing is warranted.

23 3. If a petition related to a plan of restitution has been  
24 filed, the offender, the county prosecuting attorney, the  
25 department of corrections if the offender is currently confined  
26 in a correctional institution, the office or individual who  
27 prepared the offender's restitution plan, and the victim shall  
28 receive notice prior to any hearing under this section.

29 Sec. 18. Section 910.7, Code 2020, is amended by adding the  
30 following new subsections:

31 NEW SUBSECTION. 4. An appellate court shall not review  
32 or modify an offender's plan of restitution, restitution  
33 plan of payment, or any other issue related to an offender's  
34 restitution under this subsection, unless the offender has  
35 exhausted the offender's remedies under this section and

1 obtained a ruling from the district court prior to the issue  
2 being raised in the appellate courts.

3 NEW SUBSECTION. 5. Appellate review of a district court  
4 ruling under this section shall be by writ of certiorari.

5 Sec. 19. Section 910.9, subsection 3, Code 2020, is amended  
6 to read as follows:

7 3. ~~Fines, penalties, and surcharges, crime victim~~  
8 ~~compensation program reimbursement, public agency restitution,~~  
9 ~~court costs including correctional fees claimed by a sheriff~~  
10 ~~or municipality pursuant to [section 356.7](#), and court-appointed~~  
11 ~~attorney fees ordered pursuant to [section 815.9](#), including the~~  
12 ~~expenses for public defenders, Category "A" restitution and~~  
13 ~~category "B" restitution shall not be withheld by the clerk of~~  
14 ~~court until all pecuniary damages to victims have been paid in~~  
15 ~~full. Payments to victims shall be made by the clerk of court~~  
16 ~~at least quarterly. Payments by a clerk of court shall be made~~  
17 ~~no later than the last business day of the quarter, but may be~~  
18 ~~made more often at the discretion of the clerk of court. The~~  
19 ~~clerk of court receiving final payment from an offender shall~~  
20 ~~notify all victims that full restitution has been made. Each~~  
21 ~~office or individual charged with supervising an offender who~~  
22 ~~is required to perform community service as full or partial~~  
23 ~~restitution shall keep records to assure compliance with the~~  
24 ~~portions of the plan of restitution and restitution plan of~~  
25 ~~payment relating to community service and, when the offender~~  
26 ~~has complied fully with the community service requirement,~~  
27 ~~notify the sentencing court.~~

28 Sec. 20. FINANCIAL AFFIDAVIT — SUPREME COURT RULES. The  
29 supreme court shall adopt rules prescribing the form and  
30 content of the financial affidavit.

31 EXPLANATION

32 The inclusion of this explanation does not constitute agreement with  
33 the explanation's substance by the members of the general assembly.

34 This bill relates to restitution ordered in a criminal  
35 proceeding and court debt.

1 The bill strikes jail fees assessed against a defendant in  
2 Code section 356.7 from inclusion in restitution ordered by  
3 the court. The bill allows a county or municipality to file a  
4 claim for reimbursement of the jail fees in a separate civil  
5 action rather than as a restitution claim in the underlying  
6 criminal case. The bill waives the filing fees for such civil  
7 actions.

8 The bill makes changes to the collection of court debt  
9 under Code section 602.8107. The bill changes the definition  
10 of court debt to mean all restitution, fees, and forfeited  
11 bail. The bill excludes from the definition of "court debt"  
12 correctional and jail fees assessed in Code section 356.7  
13 (jail) and Code section 904.108(6) (correctional). If a  
14 payment is made on a court debt and a case number is not  
15 identified, the bill requires the clerk to apply the payment  
16 to pecuniary damages in other criminal cases in priority order  
17 from the oldest judgment to the most recent judgment, before  
18 applying payments to other court debt. The bill substitutes  
19 the phrase "victim restitution" with "pecuniary damages as  
20 defined in section 910.1" in Code section 602.8107(4)(a)  
21 (county attorney collection of court debt).

22 The bill modifies the definition of restitution and creates  
23 category "A" restitution and category "B" restitution. The  
24 bill defines "restitution" to mean pecuniary damages, category  
25 "A" restitution, and category "B" restitution.

26 Category "A" restitution means fines, penalties, and  
27 surcharges. Category "B" restitution includes most other  
28 current restitution categories including the contribution  
29 of funds to a local anticrime organization which provided  
30 assistance to law enforcement in an offender's case, the  
31 payment of crime victim compensation program reimbursements,  
32 payment of restitution to public agencies pursuant to Code  
33 section 321J.2(13)(b), court costs, court-appointed attorney  
34 fees, including the expense of a public defender, and payments  
35 to medical assistance programs for expenditures paid on

1 behalf of the victim resulting from the offender's criminal  
2 activities. The bill excludes from the current definition of  
3 restitution fees assessed under Code section 356.7 (jail fees),  
4 and the ability of the offender to perform a public service in  
5 lieu of paying jail fees or court-appointed expenses when the  
6 offender cannot reasonably pay such fees and expenses.

7 The bill defines "financial affidavit" in Code chapter 910  
8 (restitution) to mean a sworn affidavit by the offender about  
9 the current financial information of the offender in order to  
10 assist the sentencing court and department of corrections to  
11 make a better determination about the offender's ability to pay  
12 category "B" restitution.

13 The bill defines "restitution plan of payment" and "plan of  
14 payment" as having the same meaning, and defines "permanent  
15 restitution order", "plan of restitution", and "temporary  
16 restitution order".

17 The bill strikes and replaces Code section 910.2 relating  
18 to restitution or community service ordered by a sentencing  
19 court. The bill and current law require that any pecuniary  
20 damages be paid by the offender to the victim. The bill  
21 requires category "A" restitution be paid without regard  
22 to an offender's reasonable ability to make payments. The  
23 bill requires category "B" restitution be paid subject to an  
24 offender's reasonable ability to make payments. The bill  
25 provides that when an offender is not reasonably able to pay  
26 category "B" restitution, the court may require the offender  
27 to perform community service for a needed public service for  
28 that portion of category "B" restitution the offender is not  
29 able to reasonably pay. If community service is ordered in  
30 lieu of payment of court-appointed attorney fees, the court,  
31 when setting the specific number of hours to be performed by  
32 the offender to pay for such fees, shall determine the value  
33 of hours of community service by approximating the equivalent  
34 value of public defender expenses.

35 The bill creates new Code section 910.2A relating to an

1 offender's reasonable ability to make category "B" restitution  
2 payments. The bill creates a presumption that an offender  
3 has a reasonable ability to make category "B" restitution  
4 payments. The bill establishes a judicial process to determine  
5 if an offender has a reasonable ability to pay the full amount  
6 of such restitution. If an offender requests that the court  
7 determine the amount of category "B" restitution payments the  
8 offender is reasonably able to make, the court shall hold  
9 a hearing and make such a determination. At the hearing,  
10 the burden is on the offender to prove by a preponderance of  
11 the evidence that the offender is unable to reasonably make  
12 payments toward the full amount of category "B" restitution.  
13 The offender is required to file a financial affidavit at the  
14 hearing. If the offender fails to request a hearing, the court  
15 shall order the offender to pay the full amount of category "B"  
16 restitution, and the offender is barred from later requesting a  
17 determination, except as provided in Code section 910.7. The  
18 bill specifies that a court that makes a determination at the  
19 hearing is presumed to have properly exercised discretion, and  
20 the court is not required to state the court's reasons for  
21 making the determination.

22 The bill makes changes to Code section 910.3 relating to  
23 the court's determination of the amount of restitution. The  
24 bill permits a statement of a victim's pecuniary damages  
25 to be filed within a reasonable time after the prosecuting  
26 attorney is notified by the victim of any pecuniary damages  
27 incurred. Under current law, the pecuniary damages statement  
28 by the victim is required to be filed within 30 days of the  
29 sentencing. The bill specifies that a temporary restitution  
30 order is not part of the final judgment of sentence as defined  
31 in Code section 814.6 and is not appealable, except by writ of  
32 certiorari as provided by Code section 910.7.

33 If an offender's probation is revoked, the amendment  
34 to Code section 910.4 requires the offender's probation  
35 officer to forward to the department of corrections all known

1 information concerning the offender's plan of restitution.  
2 If an offender's financial circumstances change, the bill  
3 requires the supervising agency of the offender to submit a  
4 new restitution plan of payment to the sentencing court. The  
5 bill permits the prosecuting attorney to petition the court  
6 on any matter related to an offender's restitution as long as  
7 the offender is on probation, parole, or incarcerated. The  
8 bill provides that a plan of payment shall be based on all  
9 information pertinent to the offender's reasonable ability to  
10 pay, and the first monthly payment under such a plan shall be  
11 made within 30 days of the approval of the plan.

12 The bill specifies in Code section 910.7 that the appellate  
13 court shall not review or modify an offender's plan of  
14 restitution or restitution plan of payment or review any other  
15 issue related to an offender's restitution unless the offender  
16 has exhausted the offender's remedies under Code section 910.7.

17 The amendment to Code section 910.9(3) specifies that  
18 category "A" restitution and category "B" restitution shall not  
19 be paid by the clerk of the district court until all pecuniary  
20 damages to victims have been paid in full.

21 The bill directs the supreme court to adopt rules  
22 prescribing the form and content of the financial affidavit.