

House Bill 1041
House Judiciary Committee
Testimony Presented by Sara Behrens
January 4, 2022

Good afternoon Chairman Klemin, members of the committee. My name is Sara Behrens and I am a staff attorney with the State Court Administrator's Office. I am here today in support of House Bill 1041. Currently, section 12.1-32-08 requires a hearing be held regarding restitution in all cases. Case law has held that the only exception is when the parties enter into a plea agreement wherein the defendant specifically agrees to payment of restitution. No timeline is provided regarding the restitution process.

HB 1041 provides a procedure and timeline for requesting restitution and objecting to a restitution request. The State must collect restitution information from the victim and provide a copy to the defendant within 60 days after the sentencing. Rather than a required hearing, the defendant can request a hearing within 30 days of receiving the restitution information from the State if the defendant disagrees with the restitution being requested. If a hearing is not requested within the 30 days, the court may enter restitution. Following the 30 days, the defendant may no longer challenge the restitution amount.

HB 1041 also provides additional guidance regarding what is appropriately awarded as restitution. This should assist the court and all parties with determining the appropriate restitution amount.

We hope that this will make the restitution process more easily understood, more workable, and save resources by not requiring a hearing when the amount is not challenged. Thank you for your consideration and we urge a do pass.