

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 259
Committee Substitute Favorable 4/6/89

Short Title: Limitation Tolloed for Restitution.

(Public)

Sponsors:

Referred to:

February 16, 1989

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT STATUTES OF LIMITATION AND STATUTES OF REPOSE ARE TOLLED AGAINST A DEFENDANT IN A CIVIL ACTION ARISING OUT OF A CRIMINAL OFFENSE FOR WHICH HE IS CONVICTED, UNTIL RESTITUTION ORDERED BY THE COURT OR IMPOSED AS A CONDITION OF PROBATION, SPECIAL PROBATION, WORK RELEASE, OR PAROLE IS MADE BY THE DEFENDANT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1 of the General Statutes is amended by adding a new section to read:

"§ 1-15.1. Statutes of limitation and repose for civil actions seeking to recover damages arising out of a criminal act.

(a) Notwithstanding any other provision of law, if a defendant is convicted of a criminal offense and is ordered by the court to pay restitution or restitution is imposed as a condition of probation, special probation, work release, or parole, then all applicable statutes of limitation and statutes of repose, except as established herein, are tolled for the period set forth in this subsection for purposes of any civil action brought by an aggrieved party against that defendant for damages arising out of the offense for which the defendant was convicted. Any statute of limitation or repose applicable in the civil action shall be tolled from the time of entry of the court order

(1) Requiring that restitution be made,

(2) Making restitution a condition of probation or special probation, or

1 (3) Recommending that restitution be made a condition of work release or
2 parole,

3 and until the defendant has paid in full the amount of restitution ordered or imposed.
4 Provided, however, in no event shall an action to recover damages arising out of the
5 criminal offense be commenced more than 10 years from the last act of the defendant
6 giving rise to the cause of action.

7 (b) In any civil action brought by an aggrieved party against the defendant for
8 damages arising out of the offense for which the defendant was convicted:

9 (1) The defendant has the right to contest the amount of damages;

10 (2) The amount of any restitution ordered or imposed shall not be
11 admissible into evidence; and

12 (3) All restitution paid by the defendant to the aggrieved party shall be
13 credited against any judgment rendered in the action against that
14 defendant.

15 (c) This section shall not apply if the offense of which the defendant was
16 convicted was an offense established in Chapter 20 of the General Statutes.

17 (d) A plea of no contest shall be considered the same as a conviction for purposes
18 of this section."

19 Sec. 2. This act shall become effective October 1, 1989, and shall apply to
20 claims for relief arising on or after that date.