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SENATE MEMORIAL 84

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Kent L. Cravens

A MEMORIAL

REQUESTING THE ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS
TO GUIDE AND ASSIST VICTIMS OF CRIME IN ENFORCING ORDERS OF
RESTITUTION IN MEMORY OF REECE MICHAEL NORD.

WHEREAS, although the failure of an offender to comply
with an order of restitution constitutes a violation of the
offender's probation and parole, once the probationary or
parole term expires, the court no longer has jurisdiction and
cannot enforce restitution payments; and

WHEREAS, a court without jurisdiction to enforce
restitution payments pursuant to its order leaves offenders
without an incentive to continue paying restitution to the
victims; and

WHEREAS, offenders start anew after completion of their
sentence while victims live as survivors of crime, and, after

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1 enduring the court process, which may take years, victims of
2 crime rarely receive the full restitution ordered by the court;
3 and

4 WHEREAS, when offenders do not pay the restitution in
5 full, victims bear the burden of enforcing the court order for
6 the remaining amounts due; and

7 WHEREAS, Section 31-17-1 NMSA 1978 states that an order of
8 restitution constitutes a judgment and lien against all of the
9 defendant's property and may be enforced in the same manner as
10 a civil judgment; and

11 WHEREAS, victims need the assistance of local district
12 attorneys and victim advocates to guide them through the civil
13 process of securing a lien against the offender's property,
14 pursuing garnishment and otherwise enforcing the order of
15 restitution;

16 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE
17 OF NEW MEXICO that the administrative office of the district
18 attorneys be requested to examine the issue of restitution
19 payments to victims and study possible solutions, including how
20 to guide, educate and assist victims in enforcing orders of
21 restitution and otherwise receiving the full restitution to
22 which they are entitled; and

23 BE IT FURTHER RESOLVED that the administrative office of
24 the district attorneys report on this study to the appropriate
25 interim legislative committee before October 2011; and

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BE IT FURTHER RESOLVED that a copy of this memorial be transmitted to the director of the administrative office of the district attorneys.