

*Restitution is the **money** that a judge **orders** a juvenile or adult **offender** to **pay** to the victim. It is **part** of the offender's **sentence** and is based on the victim's **expenses** resulting from the crime and the offender's **ability** to pay. The expenses might **include**: **medical/dental** expenses, **lost wages** due to the crime, or **stolen or damaged property**. However, **court** ordered restitution **does not** guarantee **payment** by the offender.*

Alternative Repayments *continued*

Writ of Execution – If victims want to pursue collecting the money themselves, they can contact the court administrator to request a Writ of Execution and an Order for Disclosure to obtain lists of the offender's property, employment and bank records. The local sheriff executes this order. Some property may be seized in this manner, but many items are exempt from confiscation. There are fees associated with this type of collection.

Collection Agency/Private Attorney – Victims may wish to attempt collection of restitution through a private collection agency or private attorney. Although expenses associated with these options vary, the costs involved may far outweigh the realistic benefit.

If the offender is a juvenile, the offender's parents can be held accountable for restitution up to \$1,000. A separate civil action needs to be brought against the parents which is usually handled in Small Claims or Conciliation Court. There are nominal filing or court fees associated with this recovery process.



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May 2002

Collecting Court-Ordered Restitution

Payment Supervision

Restitution Payment Supervision

The offender's probation officer is the person responsible for creating a payment schedule and monitoring the payments made to victims. If victims do not receive scheduled payments, they should contact the offender's probation officer through the county probation or court services agencies.

Corrections facilities send restitution payments to victims on various schedules. Some distribute payments monthly or quarterly, while others may pay restitution on a yearly basis.

It is important that victims keep the monitoring agency informed of any address changes.

If the offender is in prison, a payment schedule is determined by the inmate's case worker. If he/she is working while in prison, restitution can be taken from prison wages and forwarded to the victim on a specified payment schedule. Prison wages are minimal and take a lengthy time to accrue significantly.

Options If Offender Doesn't Pay

If the Offender Doesn't Pay

If the offender has not paid restitution according to the judge or probation officer's guidelines, victims have the right to request a probation review hearing. The probation officer can request a hearing at any time, and must ask for a hearing if the restitution has not been paid 60 days prior to the end of the offender's probation.

If the offender has been released from prison, they can also be held responsible for payment during their supervised release period. If payment does not occur during this period, the offender can be sent to prison for the remainder of the sentence.

Alternative Repayments

Other Options for Repayment

Although restitution may be part of a court imposed sentence, this does not guarantee payment to victims. This is a unfortunate and frustrating ordeal for victims who are attempting to recover emotionally, physically and financially from the aftermath of a crime. There are several options which may assist victims in recovering out-of-pocket expenses related to the crime, including:

Crime Victim Reparations – Reparations is financial assistance from the government and is available for any victim of a violent crime regardless of whether the case is charged or if the offender is found guilty. Reparations does not pay for personal property loss. Application forms are available from the Minnesota Crime Victims Reparations Board 651.282.6256. There is no application charge.

Civil Judgement – Victims can also try to collect the order through civil court. The court can change the restitution order to a civil judgment by filing an Affidavit of Identification. This action will create a lien against the offender/ debtor for up to 10 years to prevent them from obtaining financing for a home, car, credit card, etc., until the restitution is paid. Once a civil claim is filed, information about the victim becomes public. There is no filing cost to the victim(s) named in the restitution order.

Revenue Recapture – Restitution is collected from state tax refunds owed to the defendant. Funds can be intercepted from individual income tax refunds, property refunds or rental tax credits, political contribution refunds and lottery winnings over \$1,000. The claim must be made through a state authorized agency, i.e., district court, corrections. There is a nominal charge for each payment received.

continued

Review Hearing Judgements

At the review hearing, the judge may:

- ▶ Order the offender to pay all of the restitution within the remaining sentence
- ▶ Extend the offender's probation to allow more time for payment
- ▶ Send the offender to jail/prison (this may cancel the restitution order)
- ▶ Suspend the offender's driver's license (some counties)
- ▶ Allow the offender to complete probation without paying restitution or order a civil judgment against the offender for the balance of the unpaid restitution.