



A VICTIM'S RESTITUTION GUIDE

Financial Recovery



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of Victim and Survivor Rights and Services*

A VICTIM'S RIGHT TO RESTITUTION

The Victims' Bill of Rights Act in the California Constitution includes the right to restitution among its many provisions:

"All persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer."

"Restitution shall be ordered from the convicted wrongdoer in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss."

WHAT IS RESTITUTION?

Restitution is monetary compensation owed to you, the victim, by the offender. As a victim of crime, you have a right to restitution from the offender when you have crime-related expenses.

This brochure explains restitution, how it is ordered and how the California Department of Corrections and Rehabilitation's (CDCR) Office of Victim and Survivor Rights and Services (OVSRS) assists with restitution collection when the offender is sentenced to state prison.

This brochure also explains how the California Victim Compensation Board (CalVCB) can help with certain out-of-pocket crime-related expenses that have not and will not be reimbursed from any other source.



THERE ARE TWO TYPES OF RESTITUTION

One is called a **Restitution Order** and the other is a **Restitution Fine**.

A **Restitution Order** is an offender's debt to you as the victim. State law requires judges to order the offender to pay restitution in every case in which the victim has suffered an economic loss as a result of the crime.

A **Restitution Fine** is an offender's debt to society. State law requires judges to order the offender (adult or juvenile) to pay a restitution fine, set at the time of sentencing. For juveniles, the judge will require the offender to pay \$0 to \$100 for a misdemeanor and \$100 to \$1,000 for a felony. Adult offenders are required to pay \$150 to \$1,000 for a misdemeanor and \$300 to \$10,000 for a felony.

Restitution fines go into the state's Restitution Fund, a crucial funding source for CalVCB, which helps victims pay for expenses resulting from eligible crimes. Fines are very important in assuring that the fund has enough money to help past, present and future victims.

(See page 11 for more information about CalVCB)



The judge will need information from you about your losses in order to determine the correct amount for a restitution order. Make sure you give loss information to your victim advocate, deputy district attorney and/or county probation office before the sentencing hearing. The district attorney (DA) will tell the judge the amount of your expenses so the judge can order restitution.

Occasionally, the offender's sentencing hearing happens before you submit your bills. In these cases, you may not know what the total of your losses will be, so restitution will be ordered with an amount "To Be Determined" (TBD).

Once you know your expenses, you will need to contact the DA's office or the county probation department and request that a "restitution hearing" or a "restitution modification hearing" be put on calendar (scheduled court hearing) by the DA's office. The judge should then modify your restitution amount to include those losses. ***Restitution cannot be collected until a definite dollar amount is set.***

If possible, follow these steps:

1. Give copies of loss information to your victim advocate, deputy district attorney and/or probation office before the sentencing hearing.

Victim advocate: Every county has a Victim Witness Assistance Center with advocates who can help with your CalVCB application.

Deputy district attorney in charge of your case: In the event the DA's office sends you questionnaires or forms to complete concerning losses you may have incurred, it is critical that you complete and return all forms as soon as possible. Often, the DA is dealing with a very short window of opportunity to present your losses to the judge before sentencing occurs.

County probation office: The probation office is often in charge of gathering information about your losses. In felony cases, a probation officer may call you or send you a written request for your loss information in order to complete their report to be presented in court.

2. Have the crime report number (given to you by the police) and the name of the offender.
3. Keep copies of bills, receipts, expenses and any insurance information related to your crime. Always keep a copy of paperwork you submit to the DA, victim advocate and/or probation office.

WHAT ARE SOME EXAMPLES OF LOSSES COVERED BY A RESTITUTION ORDER?

- Attorney fees
- Funeral and burial expenses
- Home or vehicle modifications
- Interest
- Medical and dental services
- Mental health counseling
- Property loss – stolen or damaged property
- Possible future losses
- Relocation expenses
- Residential security
- Security system expenses

A JUDGE JUST IMPOSED A RESTITUTION ORDER TO BE PAID BY THE OFFENDER. IS THERE ANYTHING I NEED TO DO?

It's important to follow up with the appropriate agency to make sure they have your name, current address and phone number so they can forward any money collected from the offender to you.

If the offender is being sentenced to the **county system** (jail, probation or court supervision), you need to be in contact with your local **county agency**, such as the probation department, collections department, the courts, or whichever office is handling restitution collection. The agency you will need to contact may vary depending on the type of case and how your county operates.

Your local Victim Assistance Center will be able to direct you to the appropriate agency and provide you with contact information. To contact your local Victim Witness Assistance Center, visit us at victims.ca.gov or call **800-777-9229**.

If the offender is sentenced to a **California state prison**, be sure that your current contact information is on file with CDCR by completing a CDCR 1707 form. CDCR automatically collects restitution from the offender after



receiving documentation from the county, but will not be able to send it to you without your contact information. Registering with CDCR's OVSRS will allow you to not only give your current contact information, but also to ask for notifications such as parole hearing dates, release dates, etc. **It is important to notify CDCR or CalVCB each time you move.**

You may contact OVSRS directly at **877-256-6877** or learn more on CDCR's website at cdcr.ca.gov. Your contact information will never be given to the offender.

Also, be sure to get a certified copy of the restitution order for your records.

HOW IS RESTITUTION COLLECTED FROM A STATE PRISON INMATE?

Once restitution is imposed and CDCR receives a certified copy of the restitution judgment from the court, CDCR can then assist in the collection of restitution from offenders.

When an offender arrives at prison, an inmate trust account is established. This trust account acts like a bank account to accept deposits and allow withdrawals while an offender is incarcerated. It is also designed to track any financial obligations that an offender may have, such as restitution fines and orders.

If the offender has money deposited into their inmate trust account, CDCR will take up to 50 percent to pay toward their restitution. **For those offenders who have a restitution fine and a restitution order, the restitution order obligation (debt to the victim) will be paid first.**

Money collected from the inmate's trust account is transferred to the state's Restitution Fund for disbursement to the victim. Again, it is important that you register your

current contact information with CDCR so you can receive any restitution collected.

HOW IS RESTITUTION COLLECTED WHEN THE OFFENDER LEAVES PRISON?

When an offender leaves prison and restitution has not been paid in full, all victims' orders are referred to the Franchise Tax Board (FTB). Victims may verify that their restitution debt has been transferred to FTB by calling CDCR's OVSRS at **877-256-6877**. FTB is authorized to use several collection methods, including wage garnishment, bank liens and payment plans to collect your restitution debt.

Note: If the offender was in state prison but is now under county supervision, the case may remain with CDCR for collection purposes.

Your confidential information is never released to the offender or FTB during any part of this process.



WHAT IF I DON'T GET PAID?

If the offender was sent to state prison, call CDCR's OVSRS toll-free at **877-256-6877** and let them know you are not receiving payment.

If the offender is on probation, talk to your local county probation department to ensure your current contact information is on file. Your probation department can assist you in obtaining restitution from the offender.

Restitution orders never expire.

WHAT IF I WANT TO COLLECT A RESTITUTION ORDER ON MY OWN?

You may collect a restitution order as if it were a civil judgment. For more information, you may consult the California Judicial Branch at courts.ca.gov



HOW DO I RECEIVE RESTITUTION PAYMENTS IF I MOVE?

If your mailing address or phone number changes, notify the agency that is responsible for collecting your restitution, which may be CDCR, probation, or another agency. A delay in the payment process will occur if your contact information is not current or accurate. If you haven't received a recent payment, be sure that your current contact information is on file. Restitution is a lifetime debt and money may be collected at a later date. In some cases, it may take years for the offender to repay the entire debt. Your address and other contact information will not be provided to the offender.

CAN THE OFFENDER ASK FOR A RESTITUTION HEARING?

Yes. If the offender disagrees with the amount of restitution requested by the DA, they can ask for a hearing.

If the offender asks for a hearing, you may be asked to appear or provide more information concerning your claimed losses. Your victim advocate, DA's office or county probation department can help you if this happens.

WHAT IF THE OFFENDER CANNOT PAY AT THE TIME OF SENTENCING?

Restitution orders and fines never expire. Even if the offender cannot pay at the time of sentencing, you may collect at a later date.

IS RESTITUTION A LIFE-LONG DEBT FOR THE OFFENDER?

Yes. Restitution does not go away until it is paid in full. Even if an offender moves out of state, the restitution debt remains.

HOW TO RECEIVE FINANCIAL ASSISTANCE FROM CalVCB

The collection of restitution from the offender is a different process than receiving compensation through CalVCB for being a crime victim.

Victims may be eligible for financial assistance through CalVCB even before the offender is sentenced and ordered to pay restitution. If you were injured or threatened with injury during the crime and have crime-related expenses, ask your victim advocate about CalVCB.

CalVCB helps victims of crime pay for certain crime-related expenses not paid by insurance or other sources. Note: CalVCB cannot cover the costs of property damage or theft. If CalVCB provides financial assistance to you before sentencing, the judge may order the offender to repay CalVCB. A victim can receive compensation through CalVCB even if restitution cannot be collected from the offender.



CalVCB can cover crime-related expenses, such as:

- Funeral and burial costs
- Income or support loss
- Medical and dental expenses
- Counseling
- Relocation

Often, victims have expenses from the crime that require payment before restitution is available from offenders. CalVCB can provide financial assistance for qualified expenses until restitution becomes available, at which point you must reimburse CalVCB.

For more information, contact CalVCB at:

Phone: **800-777-9229**

Email: **info@victims.ca.gov**

Online: **victims.ca.gov**

WHAT OTHER RESOURCES CAN HELP WITH MY LOSSES?

Be sure to check out alternative resources that may be able to help with your losses:

- Auto insurance
- Disability (private or state)
- Filing a civil lawsuit
- Funeral insurance policy
- Homeowner's or renter's insurance
- Life insurance policies
- Mortgage insurance
- Social Security benefits
- Veterans' benefits
- Workers' Compensation benefits



YOU CAN ALSO GET HELP FROM:

- CDCR's OVSRS at 877-256-6877 or cdcr.ca.gov
- Division of Juvenile Justice Victim Services at **1-877-256-6877** or cdcr.ca.gov
- For adult offenders sentenced to state prison, contact the California Attorney General's (AG) Office of Victim Services (OVS) at 877-433-9069 or victimservices@doj.ca.gov. The California AG's OVS provides victims with appeal information on adult offenders sentenced to life in prison.
- McGeorge School of Law Victims of Crime Resource Center at **800-victims (800-842-8467)** or 1800victims.org. McGeorge School of Law Victims of Crime Resource Center provides a wide range of information and services to victims of crime.
- The California Judicial Branch at courts.ca.gov

CALIFORNIA RESTITUTION LAWS

Penal Code § 1202.4 Restitution Sentencing Law

Penal Code § 1202.45 Parole Revocation Law

Penal Code § 1202.46 Reserving Jurisdiction Over Restitution

Penal Code § 2085.5 Authorization to Collect on Fines and
Direct Orders by CDCR

Revenue and Taxation Code § 19280

Welfare and Institutions Code § 730.6 Juvenile Restitution

NEED MORE HELP?

Contact a victim advocate and find additional victim
resources and services in your county by visiting
victims.ca.gov.





California Victim Compensation Board

P.O. Box 3036

Sacramento, California 95812-3036

800-777-9229 Customer Service

916-324-1933 Restitution

victims.ca.gov

Deaf and hard of hearing:

Call the California Relay Service at 711.

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California Department of Corrections and Rehabilitation Office of Victim and Survivor Rights and Services:

P.O. Box 942883

Sacramento, CA 94283-0001

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