

RESTITUTION ISSUE MATRIX

(Revised July 2007)

ISSUE	STATUTE	BENCHGUIDE	APPLICABLE CASE LAW
Who Can Receive Restitution?	Pen. Code §1202.4	§§83.46 - 83.60	See Below
Direct Victim	Pen. Code §§1202.4 Gov. Code §13950-13696.7	§§83.46-83.49	<i>People v. Valdez</i> (1994) 24 Cal. App. 4 th 1194 <i>People v. Torres</i> (1997) 59 Cal. App. 4 th 1 <i>People v. Ortiz</i> (1997) 53 Cal. App. 4 th 791 <i>People v. Birkett</i> (1999) 21 Cal. 4 th 226 <i>People v. Saint-Amans</i> (2005) 131 Cal. App. 4 th 1076 <i>People v. Broussard</i> (1993) 5 Cal. 4 th 1067
Derivative Victim/Others/ Victim Compensation Board	Gov. Code §13951(c)	§83.49	
Restitution Fines	Pen. Code §1202.4	§83.4; 83.5	<i>People v. Walker</i> (1991) 54 Cal.3 rd 1013
Probation Revocation	Pen. Code §1202.44	§83.6	
Parole Revocation	Pen. Code §1202.45	§83.7	<i>People v. Oganasyan</i> (1999) 70 Cal. App.4 th 1178, 1183
Child Molest/Abuse	Pen. Code §294	§83.8	*Note: May not be collected by CDCR
Minimum Mandatory Fines	Welf.&Inst.Code §730.6(b)(1)&(2) Pen. Code §1202.4 (b)(1)	§83.2; 83.4; 83.9; 83.17; 83.18; 83.20	
Restitution Orders	Pen. Code §1202.4	§83.64-83.70	
Valid Orders	Pen. Code §1202.4(f)(3)	§83.64	<i>People v. Blankenship</i> (1989) 213 Cal.App. 3 rd 992
Sentencing	Pen. Code §1202.4(f)(3)	§§83.2; 83.12; 83.43	<i>People v. Walker</i> (1991) 54 Cal.3 rd 1013 <i>People v. Campbell</i> (1994) 21 Cal.App.4 th 825 <i>People v. Rowland</i> (1997) 51 Cal.App.4 th 1745
Probation Report	Pen. Code §§1203(b)(1); 1203(d)	§§83.3; 83.40	<i>People v. Cain</i> (2000) 82 Cal.App.4 th 81 <i>People v. Foster</i> (1993) 14 Cal.App.4 th 939 <i>People v. Hartley</i> (1984) 163 Cal.App.3 rd 126 <i>People v. Campbell</i> (1994) 21 Cal.App.4 th 825
Dollar Amount	Pen. Code §1202.4(f)	§§83.3; 83.50-83.59; 83.60; 83.64; 83.65	<i>People v. Foster</i> (1993) 14 Cal.App.4 th 939 <i>People v. McGhee</i> (1988) 197 Cal.App.3 rd 710 <i>People v. Baker</i> (2005) 126 Cal. App. 4 th 463

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Burden of Proof-Defense	Pen. Code §§1202.4(d); 1202.4(f)(4)(C)	§§83.44; 83.84	<i>People v. Foster</i> (1993) 14 Cal.App.4 th 939 <i>People v. Hartley</i> (1984) 163 Cal.App.3 rd 126
TBDs (to be determined)	Pen. Code §§1202.4(f),1202.46	§§83.65-83.66	<i>People v. Lunsford</i> (1998) 67 Cal.App.4 th 901 <i>People v. Amin</i> (2000) 85 Cal.App.4 th 58
Modifications	Pen.Code §§1202.46,1202.4(f)(1)	§83.70	<i>People v. Rowland</i> (1997) 51 Cal.App.4 th 1745 <i>People v. Moreno</i> (2003) 108 Cal.App.4 th 1 <i>People v. Young</i> (1995) 38 Cal.App.4 th 560 <i>People v. Smith</i> (2001) 24 Cal.4 th 849 <i>People v. Rodriguez</i> (2000) 80 Cal.App.4 th 372 <i>People v. Arata</i> (2004) 118 Cal. App. 4 th 195 <i>People v. Brown</i> (2007) 147 Cal. App. 4 th 1213
Offender			
Ability to Pay	Pen. Code §294 Pen. Code §1202.4(g) Welf.& Inst.Code §§ 730.6;742.16	§83.15	<i>People v. Whisenand</i> (1995) 37 Cal.App.4 th 1383
Compelling and Extraordinary Reasons Required for Waiver of Restitution	Pen. Code §1202.4(b); (c); (f); (g)	§§83.2; 83.20; 83.62	<i>People v. Tillman</i> (2000) 22 Cal.4 th 300
Community Service	Pen. Code §1202.4(n) Welf.& Inst. Code §730.6(n);(o)	§§83.2; 83.9	
Bankruptcy Stays		§83.34	<i>In re Gruntz</i> (9 th Cir 2000) 202 F3 rd 1074, 1084-1087
Restitution Hearings	Pen. Code §1202.4(f)(1)	§§83.41-83.44	<i>People v. Foster</i> (1993) 14 Cal.App.4 th 939 <i>People v. Arbuckle</i> (1978) 22 Cal.3 rd 749-No right to x witnesses <i>People v. Cain</i> (2000) 82 Cal.App.4 th 81-No right to x psychotherapist
Harvey Waivers	Pen. Code §1192.3(a)	§83.83	<i>People v. Harvey</i> (1979) 25 Cal.3 rd 754 <i>People v. Campbell</i> (1994) 21 Cal.App.4 th 825 <i>People v. Goulart</i> (1990) 224 Cal.App.3 rd 71 <i>People v. Baumann</i> (1985) 176 Cal.App.3 rd 67

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Juvenile Service Contracts	Welf. & Inst. Code §729.7	§§83.9; 83.77	In lieu of restitution or payment of restitution
Offsets	Pen. Code §1202.4(j)	§83.21	<i>People v. Bernal</i> (2002) 101 Cal.App.4 th 155 <i>People v. Hamilton</i> (2004) 114 Cal.App.4 th 932
Credit	Pen. Code §1202.4(j)	§83.21	<i>People v. Farsight</i> (1998) 64 Cal.App.4 th 1402 <i>People v. Cotter</i> (1992) 6 Cal.App.4 th 1671
Collection	Pen. Code §2085.5(g), (h) Welf. & Inst. Code §§730.6(p); 1752.81(f)	§§83.23; 83.77; 83.93;	<i>People v. Gentry</i> (1994) 28 Cal.App.4 th 1374, 1377-1378; <i>People v. Maheshwari</i> (2003) 107 Cal.App.4 th 1406; 1409-1411
Discretionary Restitution	Pen. Code §294 Pen. Code §1202.4 Welf. & Inst. Code §730.6	§§83.30; 83.83-83.86	<i>People v. Rowland</i> (1997) 51 Cal.App.4 th 1745; 1751-1752 <i>People v. Martinez</i> (2005) 36 Cal.4 th 384 <i>People v. Baker</i> (2005) 126 Cal.App.4 th 463 <i>People v. Keichler</i> (2005) 129 Cal.App.4 th 1039
Mandatory Restitution	Pen. Code §1202.4 Welf. & Inst. Code §730.6 Cal. Const Art.1, §28 Cal. Rule of Court 4.411.5(a);(11)	§§83.30; 83.31-83.36; 83.39	<i>People v. Valdez</i> (1994)24 Cal.App.4 th 1194 <i>People v. Carbajal</i> (1995) 10 Cal.4 th 1114 <i>People v. Pinedo</i> (1998) 60 Cal.App.4 th 1403 <i>People v. Crandell</i> (2007) 40 Cal. 4 th 1301
No Joint and Several Liability for Restitution Fines	Welf. & Inst. Code §730.6(h)(4) Pen. Code §§1202.4(b); 1202.44; 1202.45	§§83.17; 83.69	<i>People v. Blackburn</i> (1999) 72 Cal.App.4 th 1520 <i>People v. Madrana</i> (1997) 55 Cal.App.4 th 1044 <i>People v. Kunitz</i> (2004) 122 Cal. App.4 th 652
Joint and Several Liability of Parents	Welf. & Inst. Code §730.7	§§83.9; 83.77 (juveniles)	<i>In re Johnny M.</i> (2002) 100 Cal.App.4 th 1128, 1132-1133 <i>In re Michael S.</i> (2007) 147 Cal. App. 4 th 1443
Losses			
Property	Pen. Code §1202.4(f)(3)(A)	§83.52	<i>People v. Yanez</i> (1995) 38 Cal.App.4 th 1622 <i>In re Johnny M.</i> (2002)100 Cal.App.4 th 1128 <i>People v. Foster</i> (1993) 14 Cal.App.4 th 939, 946 <i>People v. Tucker</i> (1995) 37 Cal.App.4 th 1 <i>In re Dina V.</i> (2007) 151 Cal. App. 4 th 486
All losses (including non economic losses i.e. Pen. Code §288)	Pen. Code §1202.4(f)(3) Pen. Code §1203 Evi. Code §813 Welf. & Inst. Code §730.6 Pen. Code §288	§§83.50-83.58; 83.83- 83.86	<i>In re Karen A.</i> (2004) 115 Cal.App.4 th 504 <i>People v. Lunsford</i> (1998) 67 Cal.App.4 th 901 <i>People v. Goulart</i> (1990) 224 Cal.App.3d 71,82-83

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Juvenile Annual Review of Restitution	Welf. & Inst. Code §730.8		
Courts			
Jurisdiction	Pen. Code §1202.46 Welf. & Inst. Code §730.6(h)	§§83.3; 83.65	<i>People v. Rowland</i> (1997) 51 Cal.App.4 th 1745 <i>People v. Moreno</i> (2003) 108 Cal.App.4 th 1 <i>People v. Harvest</i> (2000) 84 Cal.App.4 th 641 <i>People v. Bufford</i> (2007) 146 Cal. App. 4 th 966
Enforce Order as if a Civil Judgment	Pen. Code §§1202.4(i); 1214(b); Welf.& Inst. Code §730.6(r)	§§83.25; 83.35	<i>People v. Hart</i> (1998) 65 Cal.App.4 th 902
Insurance			
Insurance Companies	Pen. Code §1202.4	§§83.48; 83.60	<i>People v. Birkett</i> (1999) 21 Cal.4 th 226 (victim's insurance) <i>People v. O'Casey</i> (2001) 88 Cal.App.4 th 967 <i>People v. Moley</i> (2000) 84 Cal.App.4 th 257 <i>People v. Bernal</i> (2002) 101 Cal.App.4 th 155
Third Parties	Pen. Code §1202.4(f)(2)	§83.60	<i>People v. Hove</i> (1999) 76 Cal.App.4 th 1266
Credit	Gov. Code §13967(c)	§§83.21; 83.69	<i>People v. Birkett</i> (1999) 21 Cal.4 th 226 <i>People v. Farsight</i> (1998)64Cal.App.4 th 1402,1408 <i>People v. Cotter</i> (1992) 6 Cal.App.4 th 1671, 1677
Offsets	Pen. Code §1202.4	§§83.2; 83.61	<i>People v. Birkett</i> (1999) 21 Cal.4 th 226 <i>People v. Bernal</i> (2002) 101 Cal.App.4 th 155 (defendant's insurance) <i>People v. Hamilton</i> (2004) 114 Cal.App.4 th 932
Attorney's Fees	Pen. Code §1202.4(f)(3)(H)	§83.57	<i>People v. Fulton</i> (2003) 109 Cal.App.4 th 876 <i>In re Imran Q.</i> (2007) 149 Cal. App. 4 th 581