

# Restitution Matrix

| Victim Defined                                       | Statutes   | 2009 Benchguide with Case Law Citations |
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| Direct Victim  | Pen. Code, §§1202.4<br>Cal. Const Art.1, §28<br>W & I Code, 730.6<br>Gov. Code, §§ 13951, 13952, 13955 | §§ 83.47, 83.48, 83.49, 83.50           |
| Derivative Victim                                    | Pen. Code, § 1202.4<br>Gov. Code, §§ 13951, 13952, 13955<br>W & I Code, § 730.6; Cal. Const Art.1, §28 | §§ 83.48, 83.49                         |
| State Restitution Fund (Victim Compensation Program) | Gov. Code, §§ 13963, Cal. Const Art.1, §28 , Pen. Code,§ 1202.4  | §§ 83.48, 83.72, 83.98                  |

| Types of Loss         | Statutes          | 2009 Benchguide with Case Law Citations            |
|-----------------------|-------------------|--|
| Economic              | Pen. Code §1202.4 | §§ 83.51, 83.52, 83.53, 83.54, 83.55, 83.56, 83.58 |
| Non-Economic & Future | Pen. Code §1202.4 | §§ 83.57, 83.59, 83.60, 83.61                      |

| Fines                       | Statutes   | 2009 Benchguide with Case Law Citations       |
|-----------------------------|--|---|
| Restitution                 | Pen. Code, § 1202.4, 1202.44, 1202.45<br>W & I Code, § 730.6 | § 83.2, 83.4, 83.5, 83.9, 83.10, 83.28, 83.29 |
| Probation Revocation        | Pen. Code § 1202.44  | § 83.6  |
| Parole Revocation           | Pen. Code, § 1202.45   | § 83.7  |
| Child Molest<br>Child Abuse | Pen. Code, § 294<br>Pen. Code § 294                          | § 83.8  |
| Minimum Mandatory Fines     | Pen. Code, §1202.4<br>W & I Code, §730.6                     | § 83.5, 83.10                                 |
| Diversions                  | Pen. Code, §1001.90  | §§ 83.27                                      |

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| Judicial Functions   | Statutes   | 2009 Benchguide with Case Law Citations    |
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| Silent Plea Bargain  | Pen. Code, § 1202.4                                      | § 83.12, 83.32,                            |
| Victim Restitution Orders  | Pen. Code, §1202.4                                       | §§ 83.3, 83.35, 83.68, 83.69               |
| Restitution Order - Specificity and Form   | Pen. Code, § 1202.4                                      | §§ 83.68                                   |
| Delegation   | Pen. Code, § 1202.4                                      | §§ 83.70                                   |
| Correction, Modification, or Amendment of Restitution Order                                      | Pen. Code, §   | §§ 83.32, 83.69, 83.74,                    |
| Expungement of Conviction; Parole out of State   | Pen. Code, §§ 1203.4, 11177.2                            | §§ 83.71                                   |
| Proposition 9 – Marsy’s Law  | Pen. Code, §1202.4; Cal. Const Art.1, §28                | §§ 83.47, 83.65, 83.75                     |
| Determination of Amount of Fine  | Pen.Code, § 1202,4                                       | § 83.13, 83.14, 83.15, 83.16, 83.17, 83.18 |
| Defendant's Ability to Pay Fine / Victim Restitution   | Pen. Code, §§ 294, 1202.4<br>W & I Code, §§ 730.6;742.16 | § 83.46, 83.18                             |
| Compelling and Extraordinary Reasons re: Victim Restitution – Void by Passage of Proposition 9   | Pen. Code, § 1202.4<br>Cal. Const Art.1, §28             | § 83.65                                    |
| Compelling and Extraordinary Reasons re: Restitution Fines – Uncertain in light of Proposition 9 | Pen. Code, 1202.4, Cal. Const Art.1, §28                 | § 83.20                                    |
| Seized Funds   | Pen. Code §1202.4  | § 83.24, 83.81                             |
| Restitution Hearings – Burden of Proof & Procedures  | Pen. Code §§ 1202.4<br>W & I Code, § 730.6               | §§ 83.41, 83.42, 83.43, 83.44, 83.45       |
| Harvey Waiver  | Pen. Code §1192.3  | § 83.87, 83.88, 83.89                      |
| Conditions of Probation  | Pen. Code, § 1203<br>W & I Code, § 730                   | §§ 83.71, 83.72, 83.84,                    |
| Payment Priority   | Pen. Code, § 1203.1d<br>Cal. Const Art.1, §28            | § 83.75                                    |
| Bankruptcy – Defendant & Victim  | Pen. Code, § 1202.4                                      | § 83.34, 83.62                             |
| Joint and Several Liability for Victim Restitution Order   | Pen. Code §§1202.4<br>Welf. & Inst. Code §730.6          | §§ 83.73, 83.82,                           |
| Joint and Several Liability for Restitution Fines  | Pen. Code, § 1202.4<br>Welf. & Inst. Code §730.7         | §§ 83.17                                   |

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|   | Statutes  | 2009 Benchguide with Case Law Citations     |
|---|---|---|
| Civil Suit by Victim                              | Pen. Code §1202.4                                     | § 83.67                                     |
| Payment by Insurance Companies                    | Pen. Code §1202.4                                     | §§ 83.50, 83.63, 83.64, 83.62               |
| Third Parties                                     | Pen. Code §1202.4                                     | § 83.62                                     |
| Mandatory Interest on Restitution                 | Pen. Code § 1202.4                                    | § 83.59                                     |
| Offsets   | Pen. Code §1202.4                                     | § 83.63                                     |
| Collection  | Pen. Code, §2085.5; W & I Code, §§ 730.6, 1752.81     | §§ 83.76, 83.77, 83.78, 83.79, 83.80, 83.81 |
| Restitution Order Enforceable as a Civil Judgment | Pen. Code §§1202.4, 1214(b); Welf.& Inst. Code §730.6 | § 83.35                                     |
| Attorney's Fees                                   | Pen. Code §1202.4                                     | § 83.60                                     |

**Restitution Issues**