



VICTIM RESTITUTION FREQUENTLY ASKED QUESTIONS

CRIME VICTIMS

<p>What is victim restitution?</p>	<p>When the court orders an offender to pay restitution, it is ordering them to pay the victim back for the damages caused by their crimes. It is intended to return the victim to a pre-crime state as much as possible. The court orders restitution in all cases and does not consider the offender's ability (or inability) to pay when the order is made.</p>
<p>As a crime victim, what are my rights?</p>	<p>The Victim's Bill of Rights under Marsy's Law significantly expands the rights of victims in California. Under Marsy's Law, the California Constitution article I, § 28, section (b) provides victims with the following enumerated rights:</p> <ol style="list-style-type: none">1. To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process.2. To be reasonably protected from the defendant and persons acting on behalf of the defendant.3. To have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the defendant.4. To prevent the disclosure of confidential information or records to the defendant,

	<p>the defendant's attorney, or any other person acting on behalf of the defendant, which could be used to locate or harass the victim or the victim's family or which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law.</p> <ol style="list-style-type: none">5. To refuse an interview, deposition, or discovery request by the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, and to set reasonable conditions on the conduct of any such interview to which the victim consents.6. To reasonable notice of and to reasonably confer with the prosecuting agency, upon request, regarding, the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of and informed before any pretrial disposition of the case.7. To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.8. To be heard, upon request, at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue.9. To a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings.10. To provide information to a probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant.
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11. To receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law.
12. To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant, and the release of or the escape by the defendant from custody.
13. To restitution.
 - A. It is the unequivocal intention of the People of the State of California that 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.
 - B. 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.
 - C. All monetary payments, monies, and property collected from any person who has been ordered to make restitution shall be first applied to pay the amounts ordered as restitution to the victim.
14. To the prompt return of property when no longer needed as evidence.
15. To be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender.
16. To have the safety of the victim, the victim's family, and the general public considered before any parole or other post-judgment release decision is made.
17. To be informed of the rights enumerated in paragraphs (1) through (16).

	<p>To learn more about your rights as a crime victim, contact a Victim Advocate at the District Attorney's Office.</p>
<p>How do I get my restitution ordered by the court?</p>	<p><u>Before the offender is sentenced in court:</u> The Deputy District Attorney handling your case can ask the judge to order victim restitution when the offender is sentenced in court. For help with this, you may request assistance from a District Attorney Victim Advocate. This process is called a "direct order."</p> <p><u>After the offender has been sentenced:</u> The Court will refer your case to Probation's Victim Restitution and Resources Division. A Restitution Specialist will contact you and gather your loss information. A recommendation will then be sent to the judge, who will sign a court order for your restitution. This process is called a "TBD, or To-Be-Determined order." It is very important for crime victims to keep their address updated by contacting Victim Restitution and Resources Division.</p>
<p>What if I don't have receipts?</p>	<p>Restitution may still be ordered on your behalf even if you don't have receipts. The request for restitution must be directly related to the crime and be considered reasonable and credible by the court.</p> <p>Future expenses: You may provide estimates or work orders for crime-related services yet to be performed.</p> <p>If you anticipate future medical expenses, you will need a note from a health care provider.</p>
<p>What can I claim as victim restitution? How about compensation for pain and suffering?</p>	<p>In general, the following may be claimed:</p> <ul style="list-style-type: none"> • Cost of repairs for property damage • Medical/dental expenses • Mental health counseling • Funeral expenses • Loss of wages • Relocation expenses • Security system expenses • Attorney fees to collect restitution

	<ul style="list-style-type: none"> • Expenses related to attending court or assisting with criminal investigation (such as mileage, parking fees or travel to court) <p>Victim restitution claims for pain and suffering are not allowed in criminal court.</p>
<p>Should I get a lawyer to help me with my restitution claim?</p>	<p>It is not necessary to hire an attorney to assist you with victim restitution. Our Restitution Specialists are trained to make sure you understand your rights to restitution and claim all eligible losses. All you have to do is provide the information, documentation, if available and specific amounts to us.</p> <p>You always have the right to consult or hire an attorney to assist with your case, however, there's no guarantee you will be fully reimbursed for the attorney's fees.</p> <p>If you've already hired an attorney and they will be sending us your loss information, you must give us permission to communicate with them regarding your claim.</p>
<p>How much time do I have to request restitution?</p>	<p>While we ask that you work with us to ensure your restitution claim is submitted to the court in a timely manner, you have up until the offender's probation ends or prison sentence ends, for the court to consider your claim. This means you would need to submit your request to us no later than 60 days prior to this time.</p> <p>Contact us if you have questions about the status of the offender.</p>
<p>How does the payment get to me?</p>	<p>In Riverside County, once there's a court order, collection and distribution of restitution payments are made by the Superior Court, Enhanced Collections Division (ECD). Make sure they have your contact information by calling 877-955-3463 or sending an email to ECDHelpDesk@riverside.courts.ca.gov.</p> <p>If the offender was sent to prison, ECD will forward the court order to California Department of Corrections and Rehabilitation Office of Victim & Survivor Rights & Services. They</p>

	<p>will collect and mail your payment to you. Make sure they have your current contact information by calling 877-256-6877 or sending an email to victimservices@cdcr.ca.gov</p> <p><i>Please note, your contact information remains confidential.</i></p>
<p>Why have my payments stopped?</p>	<p>Your payments may have stopped if the defendant discontinued making payments they were previously making to the Court’s Enhanced Collections Division, or the restitution amount has been paid in full. You can find out more information by calling ECD at 877-955-3463</p> <p>For prison cases, see “What if the offender was sentenced to prison?”</p>
<p>What if the offender was sentenced to prison? (CA Department of Corrections and Rehabilitation - CDCR)</p>	<p>Upon the offender’s arrival at the CDCR, an inmate trust account is established to accommodate monetary deposits and/or withdrawals. It is also designed to track any and all obligations that an offender may have, such as restitution fines and direct orders for victim restitution. For those offenders who have both a fine and a direct order, the direct order obligation will be satisfied first. Any money deposited into the account will be garnished at 50 percent. This money is applied toward the offender’s restitution obligations.</p> <ul style="list-style-type: none"> – When a victim contacts the Office of Victim and Survivor Rights and Services (OVSRS), either by completing the CDCR 1707 or by phone, CDCR verifies whether a court order (required for restitution) is present or not. The court order must state the victim’s name and a specific dollar amount to be paid to that victim. – It is possible, however, while incarcerated, the inmate does not receive any deposits into his/her account and therefore no restitution collections can be made. Unfortunately, this is outside the control of the CDCR. – Money collected from the inmate’s trust deposits is transferred to the Victim

	<p>Compensation and Government Claims Board (VCGCB) for disbursement to the victim. Disbursements are made in increments of \$50 or every six months, whichever is reached first.</p> <p>– Be patient, the collection process may take a long time. Inmates typically make between \$0.38 and \$1.00 per hour. There are also more inmates incarcerated than there are paying jobs available. Therefore, some inmates may not have a wage-earning job and are unable to pay restitution, unless the inmate receives money from outside sources, such as family or friends.</p>
<p>How do I find out where the offender is?</p>	<p>There are several resources to help you determine an offender’s location:</p> <ul style="list-style-type: none"> • Riverside County Sheriff’s Inmate Locator • CA Dept. of Corrections Inmate Locator • You may also contact a DA Victim Advocate for more information.
<p>Why bother? I’ll probably never get my money.</p>	<p>Restitution orders do not expire and cannot be discharged through bankruptcy. The offender’s restitution debt remains until it is paid in full. Failure to pay may result in the following:</p> <ul style="list-style-type: none"> • Pursuant to California Government Code sections 12419.8 and 12419.10, the court may intercept offender’s state tax refund and/or state lottery winnings to pay any outstanding balance owed to the court. • Civil action may be taken against offenders, which may include added fees, garnishment of wages, and liens against property.

ADULT AND JUVENILE OFFENDERS WHO OWE RESTITUTION

<p>What are my rights?</p>	<p>As an offender who has been ordered to pay victim restitution, you have a right to dispute the amount if you feel it is incorrect. Keep in mind, the offender has the burden of proving a victim's claim for losses are inaccurate.</p> <p>You also have the right to ask the Enhanced Collections Division for monthly payment arrangements. You will be required to complete a financial affidavit that takes your income and expenses into account when determining monthly payment options.</p>
<p>Why do I owe both restitution fines and victim restitution?</p>	<p><u>Restitution fines</u> are considered an offender's debt to society for their criminal behavior. In the State of California, the court must impose a restitution fine regardless of the crime committed or the sentence imposed. A fine is set at the discretion of the court.</p> <p><u>Victim restitution</u> is to pay back the damage caused to the victim(s). The court orders restitution in all cases and does not consider the offender's ability (or inability) to pay when the order is made.</p>
<p>How can I dispute the amount if I don't have an attorney?</p>	<p>First, contact the Victim Restitution Technician that sent you a letter notifying you of the restitution amount. Ask for a breakdown of the victim's restitution claim. We will provide a copy of the documentation and written recommendation that was sent to the court. Victim's confidential information will be removed from these documents.</p> <p>If you still disagree with the amount, you may contact the clerk of the court where you were sentenced and schedule a "restitution dispute hearing."</p>
<p>Why do I have to pay if my insurance company has already paid for the damages?</p>	<p>If your insurance company has made a payment to the victim, provide proof of payment to the Enhanced Collections Division, so they may credit your account.</p>

<p>The victim restitution amount is overwhelming. Can I include it in my bankruptcy?</p>	<p>Restitution orders do not expire and cannot be discharged through bankruptcy. The offender’s restitution debt remains until it is paid in full.</p>
<p>What happens if there are other defendants on my case? How do we split victim restitution?</p>	<p>The judge may have ordered all offenders on a case to be equally liable to pay the victims for their losses. This is called “joint and several liability,” which is a legal term for a responsibility that is shared by two or more parties. Collection of the total amount may be made by any or all offenders on the same case.</p>
<p>What is a direct order?</p>	<p>A “direct order” of victim restitution refers to the amount ordered by the Court at the time of sentencing. The amount of the direct order is based on the amount of the loss each victim suffered as a result of the crime. There is no maximum amount a judge can order for this type of restitution. This type of restitution goes directly to the victim.</p>
<p>What is a “To-Be-Determined” order? (TBD)</p>	<p>A TBD takes effect when a direct order for restitution was not made at sentencing. The court instructs the Probation Department to determine the restitution amount owed to the victim and prepare a written recommendation.</p> <p>Victim Restitution Technicians base their final determination on the following:</p> <ul style="list-style-type: none"> • Facts of the case • Reasonable and credible claims by victim • Penal Code 1202.4 • Guidance found in CA Judges Restitution Bench Guide •
<p>I was sentenced months ago. Why did it take so long for me to find out about my victim restitution obligation?</p>	<p>The court refers all cases the calendar month after sentencing occurs. Efforts are then made by Restitution Technicians to contact victims and determine restitution amounts. In some cases, the process may take longer, for a variety of reasons.</p>
<p>The victim in my case didn’t ask for restitution, but I owe CA Victim Compensation Board. (CalVCB) How did this happen?</p>	<p>This occurs when the crime victim filed for assistance from CA Victim Compensation Board.</p>

<p>What happens if I don't pay victim restitution?</p>	<p>Victim restitution orders do not expire and cannot be discharged through bankruptcy. The offender's restitution debt remains until it is paid in full.</p> <ul style="list-style-type: none">• Pursuant to California Government Code sections 12419.8 and 12419.10, the court may intercept your state tax refund and/or state lottery winnings to pay any outstanding balance you owe the court.• An allegation of Violation of Probation may be filed if you fail to make your payments as agreed.• Civil action may be taken against you, which can include added fees, garnishment of your wages, and liens against your property.
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8/04/20
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