

The Realities of Restitution

Since the defendant has been convicted of a crime, his/her employment opportunities and ability to earn money may be limited.

Defendants who are paying as much as they are able toward restitution, even if the amount is substantially less than what was ordered, cannot be forced to pay more.

In cases involving multiple victims, restitution is usually ordered to be disbursed on a pro-rated basis. This means that the defendant's monthly payments will be divided among the multiple victims based on the percentage of the victim's loss.

The majority of the defendants who are ordered to pay restitution never pay the total amount.

To receive restitution payments, victims must keep their address up-to-date with the appropriate County Clerk of the Court:

Apache	928.337.7550
Cochise	520.432.8600
Coconino	928.679.7600
Gila	928.402-8866
Graham	928.428.3100
Greenlee	928.865.4242
La Paz	928.669.6131
Maricopa	602.506.8621
Mohave	928.753.0713
Navajo	928-524.4185
Pima	520.724.3200
Pinal	520.866.5300
Santa Cruz	520.375.7700
Yavapai	928.771.3312
Yuma	928.817.4222

Facts About Restitution

- Restitution cannot be discharged as part of bankruptcy proceedings.
- There is no filing fee for a restitution lien.
- The Attorney General's Office maintains jurisdiction over a defendant only until their sentence ends.
- A defendant's probation may be extended for up to five years if restitution has not been paid in full.
- A restitution order is enforceable against the estate of a deceased defendant.



Questions? Give us a call.

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Serving Arizona's Crime Victims

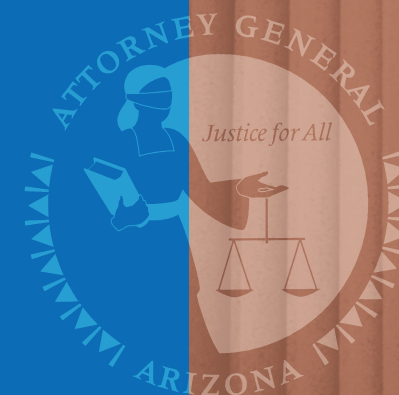
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Victims' Rights at
www.azag.gov*



Restitution: The Realities

The Basics of Restitution

The Arizona Constitution provides that crime victims are “to receive prompt restitution from the person or persons convicted of the criminal conduct that caused the victim’s loss or injury.”

Restitution is most often ordered at the time of sentencing and may include reimbursement for:

- medical expenses
- mental health counseling
- funeral costs
- expenses to restore physical safety
- lost or damaged property
- lost wages
- travel expenses

When determining the total amount of restitution, the Court is required by law to consider all of the victim’s economic losses that resulted from the crime for which the defendant was convicted.

The judge is also required to consider the defendant’s ability to pay when establishing a payment schedule, usually with monthly payments. The defendant pays the County’s Clerk of Court, who then disburses the money to victims.

A Case Example

Suppose the defendant was convicted of stealing \$9,000 from you. The judge was required by law to order the defendant to pay you \$9,000. The Court must then consider the defendant’s ability to pay to determine a payment schedule. If the defendant was sentenced to probation, say for three years, the defendant may be ordered to pay restitution in monthly

increments. Let us say the judge found that the defendant was able to make monthly payments of \$30. Even if the defendant fully complies with the order, a total of only \$1,080 would have been paid by the expiration of the sentence.

If the defendant was sentenced to prison, the Court would still have to order the defendant to pay restitution in the total amount of \$9,000. At that point, the Director of the Arizona Department of Corrections can withdraw a minimum of 20% (up to a maximum of 50%) of the inmate’s spendable account. While an inmate’s in-custody earnings may be minimal, an inmate’s account is often supplemented by contributions from friends and family, allowing the Department of Corrections to widen the net and capture meaningful amounts for restitution. Nevertheless, it is important to understand that collecting a large amount of restitution from an incarcerated offender presents significant challenges.

What if the Defendant Does Not Pay?

If the defendant is on probation, the probation officer or the Clerk of Court will notify the sentencing judge upon finding that a defendant is in arrears.

The notification must either:

- 1** Propose a modification to the monthly payment schedule;
- 2** Recommend that probation be revoked; or
- 3** Outline the reasons for the delinquency and how long it is expected to last.

The AG’s Restitution Program

When a criminal charge is filed against a defendant by the Attorney General’s Office, an asset search may be performed to see if the defendant owns any viable real estate and/or vehicles. If so, a Criminal Restitution Lien may be filed on behalf of the State of Arizona. The filing of a lien gives notice to all persons dealing with the defendant or dealing with the property identified in the lien of the State’s interest (on behalf of the victims) in the property. This lien will not be removed until the defendant pays restitution in full or until the property is sold and the profit is given to the Clerk of Court for disbursement to the victim(s).

The Arizona Attorney General’s Office of Victim Services has a Restitution Advocate who monitors the restitution payments in cases that the Attorney General’s Office prosecuted.

If a defendant is non-compliant with the restitution order, the Restitution Advocate can:

- Contact the probation officer to find out why the defendant is behind in payments, assist in facilitating payments and seek remedies to the problem.
- Act as a liaison with the Court, the Department of Corrections or the Probation Department.
- Answer questions you may have about the criminal justice system.
- Put you in touch with the prosecuting attorney or with the appropriate Court personnel.