

RESTITUTION

What is Restitution?

Arizona law requires a person who is convicted of a crime to pay restitution to a victim for out of pocket losses the victim may have suffered as a direct result of the crime. Restitution is determined by the Sentencing Judge at the time of Sentencing or at a Restitution Hearing.

Some examples of what can be considered for restitution includes:

- Medical Expenses
- Mental Health Counseling
- Funeral Costs
- Stolen or Damaged Property (i.e. car or home)
- Lost Wages
- Travel Expenses

Restitution cannot cover for:

- Pain & Suffering
- Legal Fees/Attorney Fees

In ordering restitution for economic loss, the court shall consider all losses caused by the criminal offense or offenses for which the defendant has been convicted.

The court shall not consider the economic circumstances of the defendant in determining the amount of restitution.

If more than one defendant is convicted of the offense that caused the loss, the defendants are jointly and severally liable for the restitution

Restitution Hearing

If the defendant disagrees with the amount of restitution being requested by a person who has suffered an economic loss, the defendant can request a hearing where the court may call the defendant to testify or the person who has suffered an economic loss to testify and produce information or documentation as to their loss. The state does not represent the person who has suffered an economic loss, but rather will present the evidence or information relevant to the issue of restitution to the court.

After Restitution is Ordered

Once the Court has determined the amount of restitution, the Court will issue an order for restitution against the defendant and if the defendant cannot pay the full amount ordered, then monthly payments will be set up.

If a defendant is sentenced to serve a term of imprisonment in the Arizona Department of Corrections, per the [Arizona Constitution, Article 2, Section 2.1 Victims Bill of Rights ARS § 31-230](#) it requires ADC to withdraw 20% -50% of the monies available in an inmates spendable account each month to pay towards court ordered restitution. Note: Inmates are not required to work and if they do not work, then no monies will be taken.

If a defendant is sentenced to a term of probation, restitution is a condition of probation and if the defendant falls at least 60 days delinquent on paying restitution, the probation officer has jurisdiction to request a hearing where the defendant will have to go before the court in order to show cause as why the defendant's default should not be treated as contempt. The court could issue a summons or a warrant of arrest for the defendant's appearance. A victim would be provided a copy of the notice of hearing if the victim requested post-conviction notification.

Facts About Restitution

Restitution cannot be discharged as part of bankruptcy proceedings

The trial court only maintains jurisdiction over restitution matters until the defendant's sentence ends

A defendant's probation term could be extended up to five years for restitution that has not been paid

If a defendant still owes restitution at the end of their sentence, the court will file a Criminal Restitution Order (CRO) for any unpaid balance. The CRO recorded by the Pinal County Recorder and is enforceable like any civil judgement, but unlike a civil judgement, the CRO does not have to be renewed

There is no filing fee for a person to file a restitution lien

The defendant must have an income and/or assets for a CRO "criminal restitution order" to be enforced in civil court

Roles and Responsibilities

The Probation Officer	<ul style="list-style-type: none">• Monitors compliance with terms and condition of probation including restitution (when a probation sentence is imposed)• Addresses non-compliance of conditions with the Court• Requests a Criminal Restitution Order (CRO) at the end of the term of probation
The Prosecuting Agency	<ul style="list-style-type: none">• The legal party responsible for presenting the case against an individual suspected of breaking the law• Recommends the sentencing of offenders
The Clerk of the Court	<ul style="list-style-type: none">• Maintains court files• Receives and allocates court ordered payments• Issues payments to victims
Victim	<ul style="list-style-type: none">• Opt-in to request victims' rights• Keeps contact information current with criminal justice agencies• Compiles list of economic losses and documentation that demonstrate the loss• Provides restitution request with documentation to prosecuting agency
Victim Advocate	<ul style="list-style-type: none">• Notifies opted-in victims of their rights• Assists victim with referrals to agencies/services that can assist with victims' needs• May assist victims with compiling restitution documentation• Acts as liaison between prosecutor and victim
The Court	<ul style="list-style-type: none">• Orders pre-sentence investigations which may include victim input, restitution claims, and recommended payment schedule• Orders restitution amount and payment schedule
The Department of Corrections	<ul style="list-style-type: none">• If restitution is ordered, deducts a percentage of the inmate's banking funds and sends it to the Clerk of the Court for disbursement <p>*For more information regarding corrections and restitution, or the inmate's status, please contact the Department of Corrections Office of Victim Services - https://corrections.az.gov/victim-services</p>

For more information regarding restitution please refer to the Arizona Supreme Court webpage: <https://www.azcourts.gov/cscommittees/Victim-Restitution/Restitution-Laws>