

WHAT IS RESTITUTION?

Restitution is the money paid back to the victim from the offender. The judge orders the offender to pay back the losses caused to the victim by the crime.

Restitution may be ordered for taken, broken or destroyed property, travel expenses related to the victimization, medical and dental expenses, burial expenses, and lost wages, including, but not limited to wages lost as a result of court appearances. Restitution does not include financial compensation for pain and suffering. (However, damages for pain and suffering may be recoverable in a civil suit against the offender.)

A restitution order in a criminal case is a final judgment and has all the force and effect of a final judgment in a civil action under Alabama law. The victim on whose behalf restitution is ordered, the executor or administrator of the victim's estate, or anyone else acting on behalf of the victim, is entitled to enforce the restitution order through any civil action authorized by Alabama law (garnishments, attachments, etc.).

The Court may take into consideration the following factors before ordering the amount of restitution:

- ◆ The financial resources of the defendant and the victim and the burden that the manner or method of restitution will impose upon the victim or the defendant;
- ◆ The ability of the defendant to pay restitution on an installment basis or on other conditions to be fixed by the court;
- ◆ The anticipated rehabilitative effect on the defendant regarding the manner of restitution or the method of payment;
- ◆ Any burden or hardship upon the victim as a direct or indirect result of the defendant's criminal acts;
- ◆ The mental, physical, and financial well being of the victim.



HOW DO I ASK FOR RESTITUTION?

You should contact the District Attorney's Office that is prosecuting your case. Every District Attorney's Office in Alabama has a Victim Service Officer (VSO) on staff. The VSO's job is to assist victims with the criminal justice process. He/she can assist you with listing your expenses. This is usually done in the form of a restitution affidavit. The prosecutor will present the restitution affidavit at the offender's restitution hearing.

It is a good idea to save all of your receipts/ documentation related to the expenses that you incurred as a result of the crime. This will be useful to the District Attorney's Office while attempting to recover restitution on your behalf. It is very important that you do not exaggerate your expenses. Please remember that the Court cannot order restitution if you do not submit expenses!

When the Court orders the offender to pay restitution, the judge will order the payments be made to you, or if the expenses are outstanding, to those who provided services to you such as hospitals, doctors, etc.

Also, if the Alabama Crime Victims' Compensation Commission provided compensation to you or on your behalf, the Court may order restitution to the Commission.

HOW IS PAYMENT OF RESTITUTION ENFORCED?

You should notify the District Attorney's Office if you have not received restitution payments as the Court ordered. The District Attorney's Office that prosecuted your case has the legal authority to take all lawful steps necessary to require compliance with court-ordered payments. The District Attorney may use the following methods if your offender is not paying you restitution as the Court ordered:

- ◆ a petition for revocation of probation;
- ◆ a show cause petition for contempt of court;

- ◆ any other civil or criminal proceedings which may be authorized by law or by rule of court. In addition, the district attorney may issue appropriate notices to inform the defendant of the noncompliance of the defendant and a warning of the penalty for noncompliance.

ARE THERE OTHER WAYS I CAN BE REPAID FOR MY LOSSES?

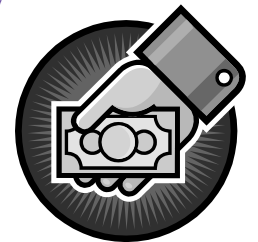
ALABAMA CRIME VICTIMS' COMPENSATION COMMISSION (ACVCC)

If you are an innocent victim of violent crime, the Alabama Crime Victims' Compensation Commission may be able to assist with some of the expenses you incurred as a result of the crime. Eligible victims may receive assistance with medical/dental/ counseling expenses, lost wages, travel, and funeral expenses. Please visit the Commission's website at www.acvcc.alabama.gov or call 800-541-9388 for more information. You have one year from the date of the crime to apply for assistance with the Commission.

EMPLOYMENT INCOME WITHHOLDING ORDER

An important tool in the collection of restitution is the Employment Income Withholding Order. When an offender has been ordered to pay a victim restitution, the victim, district attorney, or probation or parole officer, may request that the Court also issue an order directing any employer of the offender to withhold money from the offender's pay check to satisfy his/her restitution obligation. If the request for the order is granted, the employer will remit a portion of the defendant's pay each month to the court clerk.

This provision of the law may also be used to attach any asset the offender may have. You may ask the prosecutor or VSO for more information about these options.



ARE THERE OTHER WAYS I CAN BE REPAID FOR MY LOSSES?

CIVIL LAWSUITS

You can also file a civil lawsuit against your offender for recovery of your losses. If you decide to file a civil lawsuit, you will need to see a private attorney who will explain your choices and advise you.

PROPERTY LIENS

If your offender owns property, filing a lien against it with the Probate Court may be a good option for you to satisfy the outstanding restitution obligation. A private attorney can advise you on this process.

WAYS THE COURTS MAY ENFORCE RESTITUTION

PROBATION

The Court may require the offender to pay restitution as a condition of probation.

When an offender placed on probation by the Court and ordered to make restitution fails to do so, the victim, or the District Attorney may request that the Court require the offender to explain why he/she failed to pay restitution as ordered. The Court may also require the offender to do this without a request from the victim or the District Attorney. If the Court finds that the offender did not have "good cause" for failing to make restitution payments, the Court may revoke the offender's probation. If the offender's probation is revoked, he/she may be required to serve time in jail or prison.



WAYS THE COURTS MAY ENFORCE RESTITUTION

PRISON

Offenders sent to prison may be required to make restitution payments while incarcerated. The restitution order is enforceable during the period of imprisonment if the defendant has income.

The restitution order can be enforced if the offender is on WORK RELEASE or SIR (Supervised Intensive Restitution). When an offender is on work release, his/her earnings are paid to the Alabama Department of Corrections. A percentage of those earnings may be used to pay his/her outstanding restitution debt.

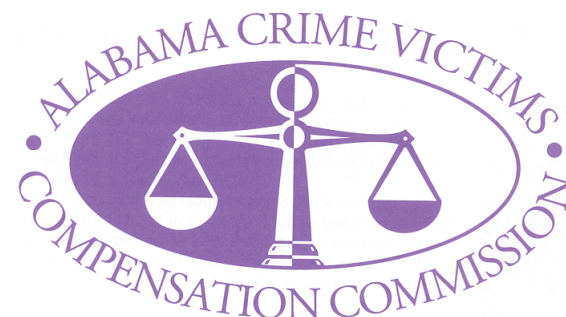
When an inmate has been ordered to pay restitution, payment of the restitution must be made a condition of his/her participation in the Supervised Intensive Restitution (SIR) program.

PAROLE

The Alabama Board of Pardons and Paroles is notified of an offender's unpaid restitution obligation by its parole officers. When an offender is paroled, payment of restitution must be made a condition of the parole. The payments are made to the Court Clerk and then sent to the person who is to receive restitution. It is the responsibility of the supervising parole officer to monitor the offender's payment of restitution. If the offender fails to make restitution as the Court has ordered, his/her parole may be revoked for the failure to pay.



HOW VICTIMS OF CRIME CAN RECEIVE RESTITUTION FOR LOSSES



A BROCHURE FOR VICTIMS

PREPARED BY

THE ALABAMA CRIME VICTIMS' COMPENSATION COMMISSION

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