



SURVEY OF SELECT STATE AND FEDERAL LAWS PROVIDING FOR THE RECOVERY OF ATTORNEY FEES IN RESTITUTION

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For additional resources relating to the protection, enforcement, and advancement of crime victims' rights, please visit NCVLI's website at www.ncvli.org.

This resource compiles select federal and state provisions that explicitly address victim restitution in connection with adult criminal proceedings. Please note that in the detailed chart that follows, restitution law as developed or elucidated in case law is not included; practitioners are encouraged to research case law in the relevant jurisdiction, as a number of jurisdictions that do not explicitly address the recovery of attorney fees in restitution in their constitutional or statutory language have established case law on the topic.¹ The quick look summary chart included below provides an overview of key provisions included in the detailed chart that follows. This resource is a survey of select laws and is not intended as an exhaustive resource of all victims' rights provisions.



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our questionnaire.

¹ See, e.g., Nat'l Crime Victim Law Inst., *Victim Law Criminal Court Motion Practice: Considerations When Seeking Attorney Fees in Restitution* (Nat'l Crime Victim Law Inst., Portland, Or.), Sept. 2016, at 1 n.7, <https://law.lclark.edu/live/files/25181-ncvli-newsletter---attorney-fees-and> (discussing considerations when seeking attorney fees in restitution and compiling cases in which restitution for attorney fees was affirmed).

“Quick Look” Summary Chart: *Comparative Snapshot of Laws Included in the Detailed Chart*

| JURISDICTION | EXPLICITLY PROVIDES FOR THE RECOVERY OF ATTORNEY FEES IN RESTITUTION IN AT LEAST SOME CIRCUMSTANCES | EXPLICITLY PROHIBITS THE RECOVERY OF ATTORNEY FEES IN RESTITUTION | EXPLICITLY GUARANTEES RESTITUTION FOR THE FULL AMOUNT OF A VICTIM'S FINANCIAL LOSS, OR SIMILAR LANGUAGE, IN AT LEAST SOME CIRCUMSTANCES |
|----------------------|---|---|---|
| Federal | | | ✓ |
| Alabama | | | ✓ |
| Alaska | | | |
| Arizona | | | ✓ |
| Arkansas | | | |
| California | ✓ | | ✓ |
| Colorado | ✓ | | ✓ |
| Connecticut | | | |
| Delaware | | | ✓ |
| District of Columbia | ✓ | | ✓ |
| Florida | | | ✓ |
| Georgia | | | ✓ |
| Hawaii | | | ✓ |
| Idaho | | | |
| Illinois | | | |
| Indiana | | | |
| Iowa | | | ✓ |
| Kansas | ✓ | | ✓ |
| Kentucky | ✓ | | ✓ |
| Louisiana | | | ✓ |
| Maine | | | |
| Maryland | | | |
| Massachusetts | | | |
| Michigan | ✓ | | ✓ |
| Minnesota | | | |

| JURISDICTION | EXPLICITLY PROVIDES FOR THE RECOVERY OF ATTORNEY FEES IN RESTITUTION IN AT LEAST SOME CIRCUMSTANCES | EXPLICITLY PROHIBITS THE RECOVERY OF ATTORNEY FEES IN RESTITUTION | EXPLICITLY GUARANTEES RESTITUTION FOR THE FULL AMOUNT OF A VICTIM'S FINANCIAL LOSS, OR SIMILAR LANGUAGE, IN AT LEAST SOME CIRCUMSTANCES |
|----------------|---|---|---|
| Mississippi | | | |
| Missouri | | | |
| Montana | | | ✓ |
| Nebraska | | | |
| Nevada | | | ✓ |
| New Hampshire | | | |
| New Jersey | | | |
| New Mexico | | | |
| New York | | | |
| North Carolina | | | |
| North Dakota | ✓ | | ✓ |
| Ohio | ✓ | | ✓ |
| Oklahoma | | | ✓ |
| Oregon | | | ✓ |
| Pennsylvania | ✓ | | ✓ |
| Rhode Island | ✓ | | |
| South Carolina | ✓ | | ✓ |
| South Dakota | | | ✓ |
| Tennessee | | | |
| Texas | ✓ | | |
| Utah | | | |
| Vermont | ✓ | | |
| Virginia | | | ✓ |
| Washington | | | |
| West Virginia | | | ✓ |
| Wisconsin | | | |
| Wyoming | | | |

Restitution Laws

| JURISDICTION | LAWS |
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| Federal | <p><i>18 U.S.C. § 1593 (Mandatory restitution).</i></p> <p>(a) Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalties authorized by law, the court shall order restitution for any offense under this chapter.</p> <p>(b)(1) The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim’s losses, as determined by the court under paragraph (3) of this subsection.</p> <p>(2) An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.</p> <p>(3) As used in this subsection, the term “full amount of the victim’s losses” has the same meaning as provided in section 2259(c)(2) and shall in addition include the greater of the gross income or value to the defendant of the victim’s services or labor or the value of the victim’s labor as guaranteed under the minimum wage and overtime guarantees of the Fair Labor Standards Act (29 U.S.C. 201 et seq.).</p> <p>(4) The forfeiture of property under this subsection shall be governed by the provisions of section 413 (other than subsection (d) of such section) of the Controlled Substances Act (21 U.S.C. 853).</p> <p>(c) As used in this section, the term “victim” means the individual harmed as a result of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or a representative of the victim’s estate, or another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named such representative or guardian.</p> <p><i>18 U.S.C. § 2259 (Mandatory restitution).</i></p> <p>(a) In general.--Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.</p> <p>(b) Scope and nature of order.--</p> <p>(1) Directions.--Except as provided in paragraph (2), the order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim’s losses.</p> <p>(2) Restitution for trafficking in child pornography.--If the defendant was convicted of trafficking in child pornography, the court shall order restitution under this section in an amount to be determined by the court as follows:</p> |

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| | <p>(A) Determining the full amount of a victim’s losses.--The court shall determine the full amount of the victim’s losses that were incurred or are reasonably projected to be incurred by the victim as a result of the trafficking in child pornography depicting the victim.</p> <p>(B) Determining a restitution amount.--After completing the determination required under subparagraph (A), the court shall order restitution in an amount that reflects the defendant’s relative role in the causal process that underlies the victim’s losses, but which is no less than \$3,000.</p> <p>(C) Termination of payment.--A victim’s total aggregate recovery pursuant to this section shall not exceed the full amount of the victim’s demonstrated losses. After the victim has received restitution in the full amount of the victim’s losses as measured by the greatest amount of such losses found in any case involving that victim that has resulted in a final restitution order under this section, the liability of each defendant who is or has been ordered to pay restitution for such losses to that victim shall be terminated. The court may require the victim to provide information concerning the amount of restitution the victim has been paid in other cases for the same losses.</p> <p>(3) Enforcement.--An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.</p> <p>(4) Order mandatory.--(A) The issuance of a restitution order under this section is mandatory.</p> <p>(B) A court may not decline to issue an order under this section because of--</p> <ul style="list-style-type: none"> (i) the economic circumstances of the defendant; or (ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source. <p>(c) Definitions.--</p> <p>(1) Child pornography production.--For purposes of this section and section 2259A, the term “child pornography production” means conduct proscribed by subsections (a) through (c) of section 2251, section 2251A, section 2252A(g) (in cases in which the series of felony violations involves at least 1 of the violations listed in this subsection), section 2260(a), or any offense under chapter 109A or chapter 117 that involved the production of child pornography (as such term is defined in section 2256).</p> <p>(2) Full amount of the victim’s losses.--For purposes of this subsection, the term “full amount of the victim’s losses” includes any costs incurred, or that are reasonably projected to be incurred in the future, by the victim, as a proximate result of the offenses involving the victim, and in the case of trafficking in child pornography offenses, as a proximate result of all trafficking in child pornography offenses involving the same victim, including--</p> <ul style="list-style-type: none"> (A) medical services relating to physical, psychiatric, or psychological care; |

| JURISDICTION | LAWS |
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| | <p>(B) physical and occupational therapy or rehabilitation;</p> <p>(C) necessary transportation, temporary housing, and child care expenses;</p> <p>(D) lost income;</p> <p>(E) reasonable attorneys' fees, as well as other costs incurred; and</p> <p>(F) any other relevant losses incurred by the victim.</p> <p>(3) Trafficking in child pornography.--For purposes of this section and section 2259A, the term "trafficking in child pornography" means conduct proscribed by section 2251(d), 2252, 2252A(a)(1) through (5), 2252A(g) (in cases in which the series of felony violations exclusively involves violations of section 2251(d), 2252, 2252A(a)(1) through (5), or 2260(b)), or 2260(b).</p> <p>(4) Victim.--For purposes of this section, the term "victim" means the individual harmed as a result of a commission of a crime under this chapter. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the crime victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.</p> <p>(d) Defined monetary assistance.--</p> <p>(1) Defined monetary assistance made available at victim's election.--</p> <p>(A) Election to receive defined monetary assistance.--Subject to paragraphs (2) and (3), when a defendant is convicted of trafficking in child pornography, any victim of that trafficking in child pornography may choose to receive defined monetary assistance from the Child Pornography Victims Reserve established under section 1402(d)(6) of the Victims of Crime Act of 1984 (34 U.S.C. 20101(d)).</p> <p>(B) Finding.--To be eligible for defined monetary assistance under this subsection, a court shall determine whether the claimant is a victim of the defendant who was convicted of trafficking in child pornography.</p> <p>(C) Order.--If a court determines that a claimant is a victim of trafficking in child pornography under subparagraph (B) and the claimant chooses to receive defined monetary assistance, the court shall order payment in accordance with subparagraph (D) to the victim from the Child Pornography Victims Reserve established under section 1402(d)(6) of the Victims of Crime Act of 1984.</p> <p>(D) Amount of defined monetary assistance.--The amount of defined monetary assistance payable under this subparagraph shall be equal to--</p> <p>(i) for the first calendar year after the date of enactment of this subsection, \$35,000; and</p> <p>(ii) for each calendar year after the year described in clause (i), \$35,000 multiplied by the ratio (not less than one) of--</p> |

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| | <p>(I) the Consumer Price Index for all Urban Consumers (CPI-U, as published by the Bureau of Labor Statistics of the Department of Labor) for the calendar year preceding such calendar year; to</p> <p>(II) the CPI-U for the calendar year 2 years before the calendar year described in clause (i).</p> <p>(2) Limitations on defined monetary assistance.--</p> <p>(A) In general.--A victim may only obtain defined monetary assistance under this subsection once.</p> <p>(B) Effect on recovery of other restitution.--A victim who obtains defined monetary assistance under this subsection shall not be barred or limited from receiving restitution against any defendant for any offenses not covered by this section.</p> <p>(C) Deduction.--If a victim who received defined monetary assistance under this subsection subsequently seeks restitution under this section, the court shall deduct the amount the victim received in defined monetary assistance when determining the full amount of the victim's losses.</p> <p>(3) Limitations on eligibility.--A victim who has collected payment of restitution pursuant to this section in an amount greater than the amount provided for under paragraph (1)(D) shall be ineligible to receive defined monetary assistance under this subsection.</p> <p>(4) Attorney fees.--</p> <p>(A) In general.--An attorney representing a victim seeking defined monetary assistance under this subsection may not charge, receive, or collect, and the court may not approve, any payment of fees and costs that in the aggregate exceeds 15 percent of any payment made under this subsection.</p> <p>(B) Penalty.--An attorney who violates subparagraph (A) shall be fined under this title, imprisoned not more than 1 year, or both.</p> <p><i>18 U.S.C. § 3663 (Order of restitution).</i></p> <p>(a)(1)(A) The court, when sentencing a defendant convicted of an offense under this title, section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863) (but in no case shall a participant in an offense under such sections be considered a victim of such offense under this section), or section 5124, 46312, 46502, or 46504 of title 49, other than an offense described in section 3663A(c), may order, in addition to or, in the case of a misdemeanor, in lieu of any other penalty authorized by law, that the defendant make restitution to any victim of such offense, or if the victim is deceased, to the victim's estate. The court may also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.</p> <p>(B)(i) The court, in determining whether to order restitution under this section, shall consider--</p> <p>(I) the amount of the loss sustained by each victim as a result of the offense; and</p> |

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| | <p>(II) the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate.</p> <p>(ii) To the extent that the court determines that the complication and prolongation of the sentencing process resulting from the fashioning of an order of restitution under this section outweighs the need to provide restitution to any victims, the court may decline to make such an order.</p> <p>(2) For the purposes of this section, the term "victim" means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.</p> <p>(3) The court may also order restitution in any criminal case to the extent agreed to by the parties in a plea agreement.</p> <p>(b) The order may require that such defendant--</p> <p>(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense--</p> <p>(A) return the property to the owner of the property or someone designated by the owner; or</p> <p>(B) if return of the property under subparagraph (A) is impossible, impractical, or inadequate, pay an amount equal to the greater of--</p> <p>(i) the value of the property on the date of the damage, loss, or destruction, or</p> <p>(ii) the value of the property on the date of sentencing,</p> <p>less the value (as of the date the property is returned) of any part of the property that is returned;</p> <p>(2) in the case of an offense resulting in bodily injury to a victim including an offense under chapter 109A or chapter 110--</p> <p>(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;</p> <p>(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and</p> <p>(C) reimburse the victim for income lost by such victim as a result of such offense;</p> <p>(3) in the case of an offense resulting in bodily injury also results in the death of a victim, pay an amount equal to the cost of necessary funeral and related services;</p> |

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| | <p>(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense;</p> <p>(5) in any case, if the victim (or if the victim is deceased, the victim’s estate) consents, make restitution in services in lieu of money, or make restitution to a person or organization designated by the victim or the estate; and</p> <p>(6) in the case of an offense under sections 1028(a)(7) or 1028A(a) of this title, pay an amount equal to the value of the time reasonably spent by the victim in an attempt to remediate the intended or actual harm incurred by the victim from the offense.</p> <p>(c)(1) Notwithstanding any other provision of law (but subject to the provisions of subsections (a)(1)(B)(i)(II) and (ii),¹ when sentencing a defendant convicted of an offense described in section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863), in which there is no identifiable victim, the court may order that the defendant make restitution in accordance with this subsection.</p> <p>(2)(A) An order of restitution under this subsection shall be based on the amount of public harm caused by the offense, as determined by the court in accordance with guidelines promulgated by the United States Sentencing Commission.</p> <p>(B) In no case shall the amount of restitution ordered under this subsection exceed the amount of the fine which may be ordered for the offense charged in the case.</p> <p>(3) Restitution under this subsection shall be distributed as follows:</p> <p>(A) 65 percent of the total amount of restitution shall be paid to the State entity designated to administer crime victim assistance in the State in which the crime occurred.</p> <p>(B) 35 percent of the total amount of restitution shall be paid to the State entity designated to receive Federal substance abuse block grant funds.</p> <p>(4) The court shall not make an award under this subsection if it appears likely that such award would interfere with a forfeiture under chapter 46 or chapter 96 of this title or under the Controlled Substances Act (21 U.S.C. 801 et seq.).</p> <p>(5) Notwithstanding section 3612(c) or any other provision of law, a penalty assessment under section 3013 or a fine under subchapter C of chapter 227 shall take precedence over an order of restitution under this subsection.</p> <p>(6) Requests for community restitution under this subsection may be considered in all plea agreements negotiated by the United States.</p> |

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| | <p>(7)(A) The United States Sentencing Commission shall promulgate guidelines to assist courts in determining the amount of restitution that may be ordered under this subsection.</p> <p>(B) No restitution shall be ordered under this subsection until such time as the Sentencing Commission promulgates guidelines pursuant to this paragraph.</p> <p>(d) An order of restitution made pursuant to this section shall be issued and enforced in accordance with section 3664.</p> <p><i>18 U.S.C. § 3663A (Mandatory restitution to victims of certain crimes).</i></p> <p>(a)(1) Notwithstanding any other provision of law, when sentencing a defendant convicted of an offense described in subsection (c), the court shall order, in addition to, or in the case of a misdemeanor, in addition to or in lieu of, any other penalty authorized by law, that the defendant make restitution to the victim of the offense or, if the victim is deceased, to the victim's estate.</p> <p>(2) For the purposes of this section, the term "victim" means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.</p> <p>(3) The court shall also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.</p> <p>(b) The order of restitution shall require that such defendant--</p> <p>(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense--</p> <p>(A) return the property to the owner of the property or someone designated by the owner; or</p> <p>(B) if return of the property under subparagraph (A) is impossible, impracticable, or inadequate, pay an amount equal to--</p> <p>(i) the greater of--</p> <p>(I) the value of the property on the date of the damage, loss, or destruction; or</p> <p>(II) the value of the property on the date of sentencing, less</p> <p>(ii) the value (as of the date the property is returned) of any part of the property that is returned;</p> <p>(2) in the case of an offense resulting in bodily injury to a victim--</p> |

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| | <p>(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;</p> <p>(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and</p> <p>(C) reimburse the victim for income lost by such victim as a result of such offense;</p> <p>(3) in the case of an offense resulting in bodily injury that results in the death of the victim, pay an amount equal to the cost of necessary funeral and related services; and</p> <p>(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.</p> <p>(c)(1) This section shall apply in all sentencing proceedings for convictions of, or plea agreements relating to charges for, any offense--</p> <p>(A) that is--</p> <p>(i) a crime of violence, as defined in section 16;</p> <p>(ii) an offense against property under this title, or under section 416(a) of the Controlled Substances Act (21 U.S.C. 856(a)), including any offense committed by fraud or deceit;</p> <p>(iii) an offense described in section 1365 (relating to tampering with consumer products); or</p> <p>(iv) an offense under section 670 (relating to theft of medical products); and</p> <p>(B) in which an identifiable victim or victims has suffered a physical injury or pecuniary loss.</p> <p>(2) In the case of a plea agreement that does not result in a conviction for an offense described in paragraph (1), this section shall apply only if the plea specifically states that an offense listed under such paragraph gave rise to the plea agreement.</p> <p>(3) This section shall not apply in the case of an offense described in paragraph (1)(A)(ii) if the court finds, from facts on the record, that--</p> <p>(A) the number of identifiable victims is so large as to make restitution impracticable; or</p> <p>(B) determining complex issues of fact related to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process.</p> <p>(d) An order of restitution under this section shall be issued and enforced in accordance with section 3664.</p> <p><i>18 U.S.C. § 3771 (Crime victims' rights).</i></p> <p>(a) Rights of crime victims.--A crime victim has the following rights:</p> |

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| | <p>...</p> <p>(6) The right to full and timely restitution as provided in law.</p> <p>....</p> |
| <p>Alabama</p> | <p><i>Ala. Code § 15-18-65 (Legislative Findings; purpose and construction of article).</i> The Legislature hereby finds, declares and determines that it is essential to be fair and impartial in the administration of justice, that all perpetrators of criminal activity or conduct be required to fully compensate all victims of such conduct or activity for any pecuniary loss, damage or injury as a direct or indirect result thereof. The provisions of this article shall be construed so as to accomplish this purpose and to promote the same which shall be the public policy of this state.</p> <p><i>Ala. Code § 15-18-66 (Definitions).</i> As used in this article, the following words and terms shall have the meanings respectively ascribed by this section:</p> <p>(1) Criminal activities. Any offense with respect to which the defendant is convicted or any other criminal conduct admitted by the defendant.</p> <p>(2) Pecuniary damages. All special damages which a person shall recover against the defendant in a civil action arising out of the facts or events constituting the defendant’s criminal activities; the term shall include, but not be limited to the money or other equivalent of property taken, broken, destroyed, or otherwise used or harmed and losses such as travel, medical, dental or burial expenses and wages including but not limited to wages lost as a result of court appearances.</p> <p>(3) Restitution. Full, partial or nominal payment of pecuniary damages to the victim or to its equivalent in services performed or work or labor done for the benefit of the victim as determined by the court of record.</p> <p>(4) Victim. Any person whom the court determines has suffered a direct or indirect pecuniary damage as a result of the defendant’s criminal activities. “Victim” shall not include any participant in the defendant’s criminal activities.</p> <p><i>Ala. Code § 15-18-67 (Restitution hearing; order of restitution; persons entitled to be heard).</i> When a defendant is convicted of a criminal activity or conduct which has resulted in pecuniary damages or loss to a victim, the court shall hold a hearing to determine the amount or type of restitution due the victim or victims of such defendant’s criminal acts. Such restitution hearings shall be held as a matter of course and in</p> |

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| | <p>addition to any other sentence which it may impose, the court shall order that the defendant make restitution or otherwise compensate such victim for any pecuniary damages. The defendant, the victim or victims, or their representatives or the administrator of any victim’s estate as well as the district attorney shall have the right to be present and be heard upon the issue of restitution at any such hearings.</p> <p><i>Ala. Code § 15-18-141 (Legislative findings, etc.).</i> The Legislature hereby finds, determines and declares that the right of crime victims to restitution is and ought to be intimately affected with the public interest. The Legislature further hereby finds, determines, and declares that convicted criminals should be required to fully compensate the victims of their unlawful activity, and to that end, our judicial system should be empowered to strictly enforce judicial decrees or orders which require convicted criminals to pay restitution. </p> |
| Alaska | <p><i>Alaska Const. art. 1, § 24 (Rights of Crime Victims).</i> Crime victims, as defined by law, shall have the following rights as provided by law: the right to be reasonably protected from the accused through the imposition of appropriate bail or conditions of release by the court; the right to confer with the prosecution; the right to be treated with dignity, respect, and fairness during all phases of the criminal and juvenile justice process; the right to timely disposition of the case following the arrest of the accused; the right to obtain information about and be allowed to be present at all criminal or juvenile proceedings where the accused has the right to be present; the right to be allowed to be heard, upon request, at sentencing, before or after conviction or juvenile adjudication, and at any proceeding where the accused’s release from custody is considered; the right to restitution from the accused; and the right to be informed, upon request, of the accused’s escape or release from custody before or after conviction or juvenile adjudication.</p> <p><i>Alaska Rev. Stat. Ann. § 12.55.045 (Restitution and compensation).</i> (a) The court shall, when presented with credible evidence, unless the victim or other person expressly declines restitution, order a defendant convicted of an offense to make restitution as provided in this section, including restitution to the victim or other person injured by the offense, to a public, private, or private nonprofit organization that has provided or is or will be providing counseling, medical, or shelter services to the victim or other person injured by the offense, or as otherwise authorized by law. The court shall, when presented with credible evidence, unless the victim expressly declines restitution, also order a defendant convicted of an</p> |

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| | <p>offense to compensate a victim that is a nonprofit organization for the value of labor or goods provided by volunteers if the labor or goods were necessary to alleviate or mitigate the effects of the defendant's crime. In determining the amount and method of payment of restitution or compensation, the court shall take into account the</p> <p>(1) public policy that favors requiring criminals to compensate for damages and injury, including loss of income, to their victims; and</p> <p>(2) financial burden placed on the victim and those who provide services to the victim and other persons injured by the offense as a result of the criminal conduct of the defendant.</p> <p>(b) An order of restitution under this section does not limit any civil liability of the defendant arising from the defendant's conduct.</p> <p>(c) If a defendant is sentenced to pay restitution, the court may grant permission for the payment to be made within a specified period of time or in specified installments. If the defendant fails to make one or more payments required under this section, the victim or the state on the victim's behalf may enforce the total amount remaining under the order of restitution as provided in (1) of this section.</p> <p>(d) In any case, including a case in which the defendant is convicted of a violation of AS 11.46.120--11.46.150 and the property is commercial fishing gear as defined in AS 16.43.990, the court shall consider the victim's loss, and the order of restitution may include compensation for loss of income.</p> <p>(e), (f) Repealed by SLA 2004, ch. 17, § 7.</p> <p>(g) The court may not, in ordering the amount of restitution, consider the defendant's ability to pay restitution.</p> <p>(h) In imposing restitution under this section, the court may require the defendant to make restitution by means other than the payment of money.</p> <p>(i) An order of restitution made under this section is a condition of the defendant's sentence and, in cases in which the court suspends all or a portion of the defendant's sentence, the order of restitution is a condition of the suspended sentence. If the court suspends imposition of sentence under AS 12.55.085, the order of restitution is a condition of the suspended imposition of sentence.</p> <p>(j) A defendant who is convicted of an offense for which restitution may be ordered shall submit financial information as ordered by the court. The Alaska Court System shall prepare a form, in consultation with the Department of Law, for the submission of the information; the form must include a warning that submission of incomplete or inaccurate information is punishable as unsworn falsification in the second degree under AS 11.56.210. A defendant who is convicted of (1) a felony shall submit the form to the probation office within 30 days after conviction, and the probation officer shall attach the form to the presentence report, or (2) a</p> |

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| | <p>misdemeanor shall file the form with the defendant’s response or opposition to the restitution amount. The defendant shall provide a copy of the completed form to the prosecuting authority.</p> <p>(k) The court, on its own motion or at the request of the prosecuting authority or probation officer, may order a defendant on probation who has been ordered to pay restitution to submit financial information to the court using the form specified in (j) of this section. The defendant shall file the completed form with the court within five days after the court’s order. The defendant shall provide a copy of the completed form to the prosecuting authority and the person’s probation officer, if any.</p> <p>(l) An order by the court that the defendant pay restitution is a civil judgment for the amount of the restitution. An order by the court that the defendant pay restitution when the court suspends entry of judgment under AS 12.55.078 or suspends imposition of sentence under AS 12.55.085 is a civil judgment for the amount of the restitution and remains enforceable and is not discharged when the proceeding is dismissed under AS 12.55.078 or a conviction is set aside under AS 12.55.085. The victim or the state on behalf of the victim may enforce the judgment through any procedure authorized by law for the enforcement of a civil judgment. If the victim enforces or collects restitution through civil process, collection costs and full reasonable attorney fees shall be awarded. If the state on the victim’s behalf enforces or collects restitution through civil process, collection costs and full reasonable attorney fees shall be awarded, up to a maximum of twice the amount of restitution owing at the time the civil process was initiated. This section does not limit the authority of the court to enforce orders of restitution.</p> <p>(m) Notwithstanding another provision of law, the court shall accept</p> <p>(1) payments of restitution from a defendant at any time; and</p> <p>(2) prepayments of restitution or payments in anticipation of an order of restitution.</p> <p>(n) In determining the amount of actual damages or loss for restitution under this section, the court shall value property as the market value of the property at the time and place of the crime or, if the market value cannot reasonably be ascertained, the cost of replacement of the property within a reasonable time after the crime.</p> <p>(o) In this section,</p> <p>(1) “conviction” means that the defendant has entered a plea of guilty, guilty but mentally ill, or nolo contendere, or has been found guilty or guilty but mentally ill by a court or jury;</p> <p>(2) “loss of income” includes the total loss of income a business or person suffers as a result of not having stolen property available during the time it takes to obtain a replacement.</p> |
| Arizona | <i>Ariz. Const. art. 2, § 2.1 (Victims’ bill of rights).</i> |

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| | <p>Section 2.1. (A) To preserve and protect victims’ rights to justice and due process, a victim of crime has a right: . . . 8. To receive prompt restitution from the person or persons convicted of the criminal conduct that caused the victim’s loss or injury. </p> <p><i>Ariz. Rev. Stat. Ann. § 13-603 (Authorized disposition of offenders).</i> A. Every person convicted of any offense defined in this title or defined outside this title shall be sentenced in accordance with this chapter and chapters 7, 8 and 9 of this title¹ unless otherwise provided by law. . . . C. If a person is convicted of an offense, the court shall require the convicted person to make restitution to the person who is the victim of the crime or to the immediate family of the victim if the victim has died, in the full amount of the economic loss as determined by the court and in the manner as determined by the court or the court’s designee pursuant to chapter 8 of this title. Restitution ordered pursuant to this subsection shall be paid to the clerk of the court for disbursement to the victim and is a criminal penalty for the purposes of a federal bankruptcy involving the person convicted of an offense. </p> <p><i>Ariz. Rev. Stat. Ann. § 13-804 (Restitution for offense causing economic loss; fine for reimbursement of public monies; notification of arrearage; review hearing).</i> A. On a defendant’s conviction for an offense causing economic loss to any person, the court, in its sole discretion, may order that all or any portion of the fine imposed be allocated as restitution to be paid by the defendant to any person who suffered an economic loss caused by the defendant’s conduct. B. In ordering restitution for economic loss pursuant to § 13-603, subsection C or subsection A of this section, the court shall consider all losses caused by the criminal offense or offenses for which the defendant has been convicted. C. The court shall not consider the economic circumstances of the defendant in determining the amount of restitution. D. Restitution payments that are ordered pursuant to § 13-603 and this section shall not be stayed if the defendant files a notice of appeal, and the payments may be held by the court pending the outcome of an appeal.</p> |

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| | <p>E. After the court determines the amount of restitution, the court or a staff member designated by the court, including a probation officer, shall specify the manner in which the restitution is to be paid. In deciding the manner in which the restitution is to be paid, the court or a staff member designated by the court, including a probation officer, shall make reasonable efforts to contact any victim who has requested notice pursuant to §§ 13-4415 and 13-4417, shall take into account the views of the victim and shall consider the economic circumstances of the defendant. In considering the economic circumstances of the defendant, the court shall consider all of the defendant's assets and income, including workers' compensation and social security benefits. The court shall make all reasonable efforts to ensure that all persons who are entitled to restitution pursuant to a court order promptly receive full restitution. The court may enter any reasonable order necessary to accomplish this. If a victim has received reimbursement for the victim's economic loss from an insurance company, a crime victim compensation program funded pursuant to § 41-2407 or any other entity, the court shall order the defendant to pay the restitution to that entity. If a victim has received only partial reimbursement for the victim's economic loss, the court shall order the defendant to pay restitution first to the victim and then to the entity that partially reimbursed the victim. If a probation, parole or community supervision officer has reason to believe that court ordered restitution is not being made, the officer shall report to the court supervising the probationer or the board of executive clemency that the defendant has failed to make restitution in a timely manner and the court or the board of executive clemency may revoke the defendant's probation, parole or community supervision.</p> <p>F. If more than one defendant is convicted of the offense that caused the loss, the defendants are jointly and severally liable for the restitution.</p> <p>G. If the court does not have sufficient evidence to support a finding of the amount of restitution or the manner in which the restitution should be paid, it may conduct a hearing on the issue according to procedures established by court rule. The court may call the defendant to testify and to produce information or evidence. The state does not represent persons who have suffered economic loss at the hearing but may present evidence or information relevant to the issue of restitution.</p> <p>H. After making the determinations in subsection B of this section the trial court shall enter a restitution order for each defendant that sets forth all of the following:</p> <ol style="list-style-type: none"> 1. The total amount of restitution the defendant owes all persons. 2. The total amount of restitution owed to each person. 3. The manner in which the restitution is to be paid. |

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| | <p>I. The restitution order under subsection H of this section may be supported by evidence or information introduced or submitted to the court before sentencing or any evidence previously heard by the judge during the proceedings.</p> <p>J. A restitution lien shall be created in favor of the state for the total amount of the restitution.</p> <p>K. A restitution lien shall be created in favor of the state for the total amount of the fine, surcharges, assessments, costs, incarceration costs and fees ordered, if any, except that a lien may not be perfected against a titled motor vehicle.</p> <p>L. Notwithstanding any other law, a restitution lien is created in favor of a victim of the defendant ordered to make restitution. Monies received monthly from the defendant shall be applied first to satisfy the restitution order entered by the court and the payment of any restitution in arrears. Any monies that are owed by this state to a person who is under a restitution order shall be assigned first to discharge the restitution order, including any tax refund that is owed to the defendant.</p> <p>M. If the defendant, the state or persons entitled to restitution pursuant to a court order disagree with the manner of payment established in subsection E of this section, the defendant, court or person entitled to restitution may petition the court at any time to change the manner in which the restitution is paid. Before modifying the order pertaining to the manner in which the restitution is paid, the court shall give notice and an opportunity to be heard to the defendant, the state and, on request, persons entitled to restitution pursuant to a court order.</p> <p>N. The adult probation department that is supervising a probationer shall notify the court having jurisdiction over the case when the probationer becomes in arrears in an amount that totals four full court-ordered monthly payments of victim restitution. The notification must include the reason for the arrearage as independently confirmed by the supervising probation officer, the expected duration of the arrearage and a recommendation to the court that either further action is not warranted at this time or that a review hearing should be held pursuant to this section. If the adult probation department recommends that no further action is warranted, the adult probation department shall include specific reasons for the recommendation. A copy of the notification shall be provided to the state and to the victim if the victim has requested notice pursuant to § 13-4415. The prosecutor or the victim may file a written objection to the recommendation that includes the reasons for the objection. Any objection must be filed with the court within ten days after the notification was provided to the party.</p> <p>O. The court shall hold a review hearing if requested by the state or the victim or, after considering the notification from the adult probation department and any objection filed, may hold a review hearing on its own motion. If requested by the state or victim, the hearing must be held within forty-five days after the court</p> |

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| | <p>received the request. A review hearing is not required if a petition to revoke probation or an order to show cause is filed. At the review hearing, the court may take any action that is permitted by law.</p> <p>P. Subsections N and O of this section do not preclude the filing of a petition to revoke or modify probation or an order to show cause pursuant to § 13-810.</p> |
| Arkansas | <p><i>Ark. Code Ann. § 5-4-205 (Restitution).</i></p> <p>(a)(1) A defendant who is found guilty or who enters a plea of guilty or nolo contendere to an offense may be ordered to pay restitution.</p> <p>(2) If the court decides not to order restitution or orders restitution of only a portion of the loss suffered by the victim, the court shall state on the record in detail the reasons for not ordering restitution or for ordering restitution of only a portion of the loss.</p> <p>(b)(1) Whether a trial court or a jury, the sentencing authority shall make a determination of actual economic loss caused to a victim by the offense.</p> <p>(2) When an offense has resulted in bodily injury to a victim, a restitution order entered under this section may require that the defendant:</p> <p>(A) Pay the cost of a necessary medical or related professional service or device relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a recognized method of healing;</p> <p>(B) Pay the cost of necessary physical and occupational therapy and rehabilitation;</p> <p>(C)(i) Reimburse the victim for income lost by the victim as a result of the offense.</p> <p>(ii) The maximum that a victim may recover for lost income is fifty thousand dollars (\$50,000); and</p> <p>(D) Pay an amount equal to the cost of a necessary funeral and related services in the case of an offense that resulted in bodily injury that also resulted in the death of a victim.</p> <p>(3) When an offense has not resulted in bodily injury to a victim, a restitution order entered under this section may require that the defendant reimburse the victim for income lost by the victim as a result of the offense.</p> <p>(4)(A) The determination of the amount of loss is a factual question to be decided by the preponderance of the evidence presented to the sentencing authority during the sentencing phase of a trial.</p> <p>(B) The amount of loss may be decided by agreement between a defendant and the victim represented by the prosecuting attorney.</p> |

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| | <p>(5) If any item listed in subdivision (b)(2) of this section has been paid by the Crime Victims Reparations Board and the court orders restitution, the restitution order shall provide that the board is to be reimbursed by the defendant.</p> <p>(c)(1) As used in this section and in any provision of law relating to restitution, “victim” means any person, partnership, corporation, or governmental entity or agency that suffers property damage or loss, monetary expense, or physical injury or death as a direct or indirect result of the defendant’s offense or criminal episode.</p> <p>(2) “Victim” includes a victim’s estate if the victim is deceased and a victim’s next of kin if the victim is deceased as a result of the offense.</p> <p>(d) A record of a defendant shall not be sealed under the Comprehensive Criminal Record Sealing Act of 2013, § 16-90-1401 et seq., until all court-ordered restitution has been paid.</p> <p>(e)(1) Restitution shall be made immediately unless prior to the imposition of sentence the court determines that the defendant should be:</p> <p>(A) Given a specified time to pay; or</p> <p>(B)(i) Allowed to pay in specified installments.</p> <p>(ii) If a court authorizes payment of restitution by a defendant in specified installments, a monthly installment fee of five dollars (\$5.00) shall be assessed on the defendant for making restitution payments on an installment basis in addition to the restitution and other assessments authorized.</p> <p>(iii) The monthly installment fee under subdivision (e)(1)(B)(ii) of this section shall be remitted to the collecting official to be used to defray the cost of restitution collection.</p> <p>(iv) [Repealed by Acts of 2015, Act 583, § 1, eff. July 22, 2015.]</p> <p>(2) In determining the method of payment, the court shall take into account:</p> <p>(A) The financial resources of the defendant and the burden that payment of restitution will impose with regard to another obligation of the defendant;</p> <p>(B) The ability of the defendant to pay restitution on an installment basis or on another condition to be fixed by the court; and</p> <p>(C) The rehabilitative effect on the defendant of the payment of restitution and the method of payment.</p> <p>(f)(1) If the defendant is placed on probation or any form of conditional release, any restitution ordered under this section is a condition of the suspended imposition of sentence, probation, parole, or transfer.</p> <p>(2) The court may revoke probation and any agency establishing a condition of release may revoke the conditional release if the defendant fails to comply with the order and if the defendant has not made a good faith effort to comply with the order.</p> |

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| | <p>(3) In determining whether to revoke probation or conditional release, the court or releasing authority shall consider:</p> <ul style="list-style-type: none"> (A) The defendant’s employment status; (B) The defendant’s earning ability; (C) The defendant’s financial resources; (D) The willfulness of the defendant’s failure to pay; and (E) Any other special circumstances that may have a bearing on the defendant’s ability to pay. <p>(g)(1) The court shall enter a judgment against the defendant for the amount determined under subdivision (b)(4) of this section.</p> <p>(2) The judgment may be enforced by the state or a beneficiary of the judgment in the same manner as a judgment for money in a civil action.</p> <p>(3) A judgment under this section may be discharged by a settlement between the defendant and the beneficiary of the judgment.</p> <p>(4) The court shall determine priority among multiple beneficiaries on the basis of:</p> <ul style="list-style-type: none"> (A) The seriousness of the harm each beneficiary suffered; (B) The other resources of the beneficiaries; and (C) Other equitable factors. <p>(5) If more than one (1) defendant is convicted of the crime for which there is a judgment under this section, the defendants are jointly and severally liable for the judgment unless the court determines otherwise.</p> <p>(6)(A) A judgment shall require payment to the Department of Community Correction.</p> <p>(B) The department shall provide for supervision and disbursement of funds under subdivision (g)(6)(A) of this section by the department’s authorized economic sanction officers.</p> <p>(h)(1) A judgment under this section does not bar a remedy available in a civil action under other law.</p> <p>(2) A payment under this section shall be credited against a money judgment obtained by the beneficiary of the payment in a civil action.</p> <p>(3) A determination under this section and the fact that payment was or was not ordered or made:</p> <ul style="list-style-type: none"> (A) Are not admissible in evidence in a civil action; and (B) Do not affect the merits of a civil action. <p><i>Ark. Code Ann. § 16-90-301 (Findings).</i> The General Assembly recognizes that many innocent persons suffer injury, death, property damage, and resultant financial hardship because of crimes committed in this state and that there is a genuine need in this</p> |

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| | <p>state to establish a method whereby the responsible offender, as far as practicable, may be required to make restitution to his or her victim so as to make that victim whole with respect to the financial injury suffered.</p> <p><i>Ark. Code Ann. § 16-90-309 (Theft of state or local government property – Restitution).</i></p> <p>(a) When any defendant is found guilty or pleads guilty or nolo contendere to theft or any other offense affecting property held by or belonging to the state or any political subdivision thereof, the court shall require the payment of restitution for the benefit of the state or the applicable political subdivision as part of the sentence.</p> <p>(b) The court shall set the amount of restitution based on reliable and probative evidence. Any amounts received by the state or a political subdivision from the Self-Insured Fidelity Bond Program, § 21-2-701 et seq., or other third party bonds as a result of the defendant’s actions shall not reduce the amount of restitution required to be paid by the defendant.</p> <p>(c) If payments are made by the Self-Insured Fidelity Bond Program to reimburse the state or political subdivision for losses incurred as a result of the actions of the defendant, the Self-Insured Fidelity Bond Program is entitled to receive priority to any restitution ordered and received by the court up to the amount paid by the Self-Insured Fidelity Bond Program to the state or political subdivision.</p> <p>(d) The Self-Insured Fidelity Bond Program is subrogated to any right of the state or political subdivision to the extent of any proceeds paid by the Self-Insured Fidelity Bond Program.</p> <p>(e) If restitution is allowed to be made over a period of time, the court shall also require the payment of interest on the amount of outstanding restitution. Interest shall begin to accrue from the date the court-ordered restitution is filed with the court clerk. The court shall determine the rate of interest to be assessed.</p> <p>(f) An order of restitution for the benefit of the state or any political subdivision pursuant to the provisions of this section and § 16-90-310 does not bar any civil remedy that may also be available under law.</p> |
| <p>California</p> | <p><i>Cal. Const. art. I, § 28 (Findings and declarations; rights of victims; enforcement).</i></p> <p>...</p> <p>(a)(2) Actual and reasonable attorney’s fees and other costs of collection accrued by a private entity on behalf of the victim. . . .</p> <p>...</p> <p>(3) The rights of victims pervade the criminal justice system. These rights include personally held and enforceable rights described in paragraphs (1) through (17) of subdivision (b).</p> |

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| | <p>(b) In order to preserve and protect a victim’s rights to justice and due process, a victim shall be entitled to the following rights:</p> <p>...</p> <p>(13) To restitution.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>....</p> <p><i>Cal. Penal Code § 1202.4 (Restitution fines; exception; amounts; hearing; disclosure; extension).</i></p> <p>(a)(1) It is the intent of the Legislature that a victim of crime who incurs an economic loss as a result of the commission of a crime shall receive restitution directly from a defendant convicted of that crime.</p> <p>...</p> <p>(f) Except as provided in subdivisions (q) and (r), in every case in which a victim has suffered economic loss as a result of the defendant’s conduct, the court shall require that the defendant make restitution to the victim or victims in an amount established by court order, based on the amount of loss claimed by the victim or victims or any other showing to the court. If the amount of loss cannot be ascertained at the time of sentencing, the restitution order shall include a provision that the amount shall be determined at the direction of the court. The court shall order full restitution. The court may specify that funds confiscated at the time of the defendant’s arrest, except for funds confiscated pursuant to Chapter 8 (commencing with Section 11469) of Division 10 of the Health and Safety Code, be applied to the restitution order if the funds are not exempt for spousal or child support or subject to any other legal exemption.</p> <p>...</p> <p>(3) To the extent possible, the restitution order shall be prepared by the sentencing court, shall identify each victim and each loss to which it pertains, and shall be of a dollar amount that is sufficient to fully reimburse the victim or victims for every determined economic loss incurred as the result of the defendant’s criminal conduct, including, but not limited to, all of the following: . . . (H) Actual and reasonable attorney’s fees and other costs of collection accrued by a private entity on behalf of the victim.</p> |

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| Colorado | <p><i>Colo. Rev. Stat. § 18-1.3-601 (Legislative declaration).</i></p> <p>(1) The general assembly finds and declares that:</p> <p>(a) Crime victims endure undue suffering and hardship resulting from physical injury, emotional and psychological injury, or loss of property;</p> <p>(b) Persons found guilty of causing such suffering and hardship should be under a moral and legal obligation to make full restitution to those harmed by their misconduct;</p> <p>(c) The payment of restitution by criminal offenders to their victims is a mechanism for the rehabilitation of offenders;</p> <p>(d) Restitution is recognized as a deterrent to future criminality;</p> <p>(e) An effective criminal justice system requires timely restitution to victims of crime and to members of the immediate families of such victims in order to lessen the financial burdens inflicted upon them, to compensate them for their suffering and hardship, and to preserve the individual dignity of victims;</p> <p>(f) Former procedures for restitution assessment, collection, and distribution have proven to be inadequate and inconsistent from case to case;</p> <p>(g) The purposes of this part 6 are to facilitate:</p> <p>(I) The establishment of programs and procedures to provide for and collect full restitution for victims of crime in the most expeditious manner; and</p> <p>(II) The effective and timely assessment, collection, and distribution of restitution requires the cooperation and collaboration of all criminal justice agencies and departments.</p> <p>(2) It is the intent of the general assembly that restitution be ordered, collected, and disbursed to the victims of crime and their immediate families. Such restitution will aid the offender in reintegration as a productive member of society. This part 6 shall be liberally construed to accomplish all such purposes.</p> <p><i>Colo. Rev. Stat. § 18-1.3-602 (Definitions).</i></p> <p>As used in this part 6, unless the context otherwise requires:</p> <p>(1) “Collections investigator” means a person employed by the judicial department whose primary responsibility is to administer, enforce, and collect on court orders or judgments entered with respect to fines, fees, restitution, or any other accounts receivable of the court, judicial district, or judicial department.</p> |

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| | <p>(2) “Conviction” means a verdict of guilty by a judge or jury or a plea of guilty or nolo contendere that is accepted by the court for a felony, misdemeanor, petty offense, or traffic misdemeanor offense, or adjudication for an offense that would constitute a criminal offense if committed by an adult. “Conviction” also includes having received a deferred judgment and sentence or deferred adjudication; except that a person shall not be deemed to have been convicted if the person has successfully completed a deferred sentence or deferred adjudication.</p> <p>(2.3) “Money advanced by a governmental agency for a service animal” means costs incurred by a peace officer, law enforcement agency, fire department, fire protection district, or governmental search and rescue agency for the veterinary treatment and disposal of a service animal that was harmed while aiding in official duties and for the training of an animal to become a service animal to replace a service animal that was harmed while aiding in official duties, as applicable.</p> <p>(2.5) Repealed by Laws 2004, Ch. 255, § 27, eff. May 21, 2004.</p> <p>(3)(a) “Restitution” means any pecuniary loss suffered by a victim and includes but is not limited to all out-of-pocket expenses, interest, loss of use of money, anticipated future expenses, rewards paid by victims, money advanced by law enforcement agencies, money advanced by a governmental agency for a service animal, adjustment expenses, and other losses or injuries proximately caused by an offender’s conduct and that can be reasonably calculated and recompensed in money. “Restitution” does not include damages for physical or mental pain and suffering, loss of consortium, loss of enjoyment of life, loss of future earnings, or punitive damages.</p> <p>(a.5) “Restitution” includes, for a person convicted of assault in the first, second, or third degree, as described in section 18-3-202, 18-3-203, or 18-3-204, all or any portion of the financial obligations of medical tests performed on and treatment prescribed for a victim, peace officer, firefighter, emergency medical care provider, or emergency medical service provider.</p> <p>(b) “Restitution” may also include extraordinary direct public and all private investigative costs.</p> <p>(c)(I) “Restitution” shall also include all costs incurred by a government agency or private entity to:</p> <p>(A) Remove, clean up, or remediate a place used to manufacture or attempt to manufacture a controlled substance or which contains a controlled substance or which contains chemicals, supplies, or equipment used or intended to be used in the manufacturing of a controlled substance;</p> <p>(B) Store, preserve, or test evidence of a controlled substance violation; or</p> <p>(C) Sell and provide for the care of and provision for an animal disposed of under the animal cruelty laws in accordance with part 2 of article 9 of this title or article 42 of title 35, C.R.S.</p> |

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| | <p>(II) Costs under this paragraph (c) shall include, but are not limited to, overtime wages for peace officers or other government employees, the operating expenses for any equipment utilized, and the costs of any property designed for one-time use, such as protective clothing.</p> <p>(d) “Restitution” shall also include costs incurred by a governmental agency or insurer that provides medical benefits, health benefits, or nonmedical support services directly related to a medical or health condition to a victim for losses or injuries proximately caused by an offender’s conduct, including but not limited to costs incurred by medicaid and other care programs for indigent persons.</p> <p>(3.5) “Service animal” means any animal, the services of which are used to aid the performance of official duties by a peace officer, law enforcement agency, fire department, fire protection district, or governmental search and rescue agency.</p> <p>(4)(a) “Victim” means any person aggrieved by the conduct of an offender and includes but is not limited to the following:</p> <p>(I) Any person against whom any felony, misdemeanor, petty, or traffic misdemeanor offense has been perpetrated or attempted;</p> <p>(II) Any person harmed by an offender’s criminal conduct in the course of a scheme, conspiracy, or pattern of criminal activity;</p> <p>(III) Any person who has suffered losses because of a contractual relationship with, including but not limited to, an insurer, or because of liability under section 14-6-110, C.R.S., for a person described in subparagraph (I) or (II) of this paragraph (a);</p> <p>(IV) Any victim compensation board that has paid a victim compensation claim;</p> <p>(V) If any person described in subparagraph (I) or (II) of this paragraph (a) is deceased or incapacitated, the person’s spouse, parent, legal guardian, natural or adopted child, child living with the victim, sibling, grandparent, significant other, as defined in section 24-4.1-302(4), C.R.S., or other lawful representative;</p> <p>(VI) Any person who had to expend resources for the purposes described in paragraphs (b), (c), and (d) of subsection (3) of this section.</p> <p>(b) “Victim” shall not include a person who is accountable for the crime or a crime arising from the same conduct, criminal episode, or plan as defined under the law of this state or of the United States.</p> <p>(c) Any “victim” under the age of eighteen is considered incapacitated, unless that person is legally emancipated or the court orders otherwise.</p> <p>(d) It is the intent of the general assembly that this definition of the term “victim” shall apply to this part 6 and shall not be applied to any other provision of the laws of the state of Colorado that refers to the term “victim”.</p> |

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| | <p>(e) Notwithstanding any other provision of this section, “victim” includes a person less than eighteen years of age who has been trafficked by an offender, as described in section 18-3-503 or 18-3-504.</p> <p><i>Colo. Rev. Stat. § 18-1.3-603 (Assessment of restitution – corrective orders).</i></p> <p>(1) Every order of conviction of a felony, misdemeanor, petty, or traffic misdemeanor offense, except any order of conviction for a state traffic misdemeanor offense issued by a municipal or county court in which the prosecuting attorney is acting as a special deputy district attorney pursuant to an agreement with the district attorney’s office, shall include consideration of restitution. Each such order shall include one or more of the following:</p> <p>(a) An order of a specific amount of restitution be paid by the defendant;</p> <p>(b) An order that the defendant is obligated to pay restitution, but that the specific amount of restitution shall be determined within the ninety-one days immediately following the order of conviction, unless good cause is shown for extending the time period by which the restitution amount shall be determined;</p> <p>(c) An order, in addition to or in place of a specific amount of restitution, that the defendant pay restitution covering the actual costs of specific future treatment of any victim of the crime; or</p> <p>(d) Contain a specific finding that no victim of the crime suffered a pecuniary loss and therefore no order for the payment of restitution is being entered.</p> <p>(2) The court shall base its order for restitution upon information presented to the court by the prosecuting attorney, who shall compile such information through victim impact statements or other means to determine the amount of restitution and the identities of the victims. Further, the prosecuting attorney shall present this information to the court prior to the order of conviction or within ninety-one days, if it is not available prior to the order of conviction. The court may extend this date if it finds that there are extenuating circumstances affecting the prosecuting attorney’s ability to determine restitution.</p> <p>(3) Any order for restitution may be:</p> <p>(a) Increased if additional victims or additional losses not known to the judge or the prosecutor at the time the order of restitution was entered are later discovered and the final amount of restitution due has not been set by the court; or</p> <p>(b) Decreased:</p> <p>(I) With the consent of the prosecuting attorney and the victim or victims to whom the restitution is owed; or</p> <p>(II) If the defendant has otherwise compensated the victim or victims for the pecuniary losses suffered.</p> <p>(4)(a)(I) Any order for restitution entered pursuant to this section is a final civil judgment in favor of the state and any victim. Notwithstanding any other civil or criminal statute or rule, any such judgment remains in force</p> |

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| | <p>until the restitution is paid in full. The provisions of article 18.5 of title 16, C.R.S., apply notwithstanding the termination of a deferred judgment and sentence or a deferred adjudication, the entry of an order of expungement pursuant to section 19-1-306, C.R.S., or an order to seal entered pursuant to part 7 of article 72 of title 24, C.R.S.</p> <p>(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (a), two years after the presentation of the defendant’s original death certificate to the clerk of the court or the court collections investigator, the court may terminate the remaining balance of the judgment and order for restitution if, following notice by the clerk of the court or the court collections investigator to the district attorney, the district attorney does not object and there is no evidence of a continuing source of income of the defendant to pay restitution. The termination of a judgment and order pursuant to this subparagraph (II) does not terminate an associated judgment against a defendant who is jointly and severally liable with the deceased defendant.</p> <p>(b) Any order for restitution made pursuant to this section is also an order that:</p> <p>(I) The defendant owes simple interest from the date of the entry of the order at the rate of eight percent per annum; and</p> <p>(II) The defendant owes all reasonable and necessary attorney fees and costs incurred in collecting such order due to the defendant’s nonpayment.</p> <p>(c) The entry of an order for restitution under this section creates a lien by operation of law against the defendant’s personal property and any interest that the defendant may have in any personal property.</p> <p>(d) Any order of restitution imposed shall be considered a debt for “willful and malicious” injury for purposes of exceptions to discharge in bankruptcy as provided in 11 U.S.C. sec. 523.</p> <p>(e) The clerk of the court is authorized to adjust the unpaid balance in the case upon proof that any restitution or related interest amounts have been or will be satisfied outside of the court registry and receipting process regardless of when the restitution order and judgment were entered. The accounting adjustment does not modify a court’s order.</p> <p>(5) If more than one defendant owes restitution to the same victim for the same pecuniary loss, the orders for restitution shall be joint and several obligations of the defendants.</p> <p>(6) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by such victim in any federal or state civil proceeding.</p> <p>(7) When a person’s means of identification or financial information was used without that person’s authorization in connection with a conviction for any crime in violation of part 2, 3, or 4 of article 4, part 1, 2, 3, or 7 of article 5, or article 5.5 of this title, the sentencing court may issue such orders as are necessary to</p> |

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| | <p>correct a public record that contains false information resulting from any violation of such laws. In addition, the restitution order shall include any costs incurred by the victim related to section 16-5-103, C.R.S.</p> <p>(8)(a) Notwithstanding the provisions of subsection (1) of this section, for a non-felony conviction under title 42, C.R.S., the court shall order restitution concerning only the portion of the victim’s pecuniary loss for which the victim cannot be compensated under a policy of insurance, self- insurance, an indemnity agreement, or a risk management fund.</p> <p>(b) The court, in determining the restitution amount, shall consider whether the defendant or the vehicle driven by the defendant at the time of the offense was covered by:</p> <p>(I) A complying policy of insurance or certificate of self-insurance as required by the laws of this state;</p> <p>(II) Self-insurance including but not limited to insurance coverage pursuant to the provisions of part 15 of article 30 of title 24, C.R.S.; or</p> <p>(III) Any other insurance or indemnity agreement that would indemnify the defendant for any damages sustained by the victim.</p> <p>(c)(I) Except as otherwise provided in this paragraph (c), a court may not award restitution to a victim concerning a pecuniary loss for which the victim has received or is entitled to receive benefits or reimbursement under a policy of insurance or other indemnity agreement.</p> <p>(II)(A) A court may award a victim restitution for a deductible amount under his or her policy of insurance.</p> <p>(B) Deleted by Laws 2004, Ch. 255, § 28, eff. May 21, 2004.</p> <p>(d)(I) Deleted by Laws 2004, Ch. 255, § 28, eff. May 21, 2004.</p> <p>(II) Nothing in this paragraph (d) shall prohibit a nonowner driver or passenger in the vehicle from being awarded restitution if the driver or passenger was not covered by his or her own medical payments coverage policy.</p> <p>(e)(I) Notwithstanding any provision of law to the contrary, an insurance company, risk management fund, or public entity shall not be obligated to defend a defendant in a hearing concerning restitution. No court shall interpret an indemnity or insurance contract so as to obligate an insurance company, risk management fund, or public entity to defend a defendant at a restitution hearing absent a specific agreement.</p> <p>(II) Notwithstanding any provision of law, indemnity contract, or insurance contract to the contrary, an insurance company, risk management fund, or public entity shall not be obligated to pay or otherwise satisfy a civil judgment entered pursuant to this part 6, or to indemnify a defendant for an amount awarded in a restitution order.</p> <p>(f) Nothing in this article shall be construed to limit or abrogate the rights and immunities set forth in the “Colorado Governmental Immunity Act”, article 10 of title 24, C.R.S.</p> |

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| | <p>(g) The provisions of this subsection (8) shall not preclude the court, pursuant to article 4.1 of title 24, C.R.S., from ordering restitution to reimburse an expenditure made by a victim compensation fund.</p> <p>(9) For a conviction for human trafficking for involuntary servitude, as described in section 18-3-503, or for human trafficking for sexual servitude, as described in section 18-3-504, the court shall order restitution, if appropriate, pursuant to this section even if the victim is unavailable to accept payment of restitution.</p> <p>(10)(a) If, as a result of the defendant’s conduct, a crime victim compensation board has provided assistance to or on behalf of a victim pursuant to article 4.1 of title 24, C.R.S., the amount of assistance provided and requested by the crime victim compensation board is presumed to be a direct result of the defendant’s criminal conduct and must be considered by the court in determining the amount of restitution ordered.</p> <p>(b) The amount of assistance provided is established by either:</p> <p>(I) A list of the amount of money paid to each provider; or</p> <p>(II) If the identity or location of a provider would pose a threat to the safety or welfare of the victim, summary data reflecting what total payments were made for:</p> <p>(A) Medical and dental expenses;</p> <p>(B) Funeral or burial expenses;</p> <p>(C) Mental health counseling;</p> <p>(D) Wage or support losses; or</p> <p>(E) Other expenses.</p> <p>(c) Records of a crime victim compensation board relating to a claimed amount of restitution are subject to the provisions of section 24-4.1-107.5, C.R.S.</p> |
| Connecticut | <p><i>Conn. Const. art. 1, § 8 (Rights of accused in criminal prosecutions. What cases bailable. Speedy trial. Due process. Excessive bail or fines. Probable cause shown at hearing, when necessary. Rights of victims of crime).</i></p> <p>Sec. 8. [As amended] a. In all Criminal prosecutions, the accused shall have a right to be heard by himself and by counsel; to be informed of the nature and cause of the accusation; to be confronted by the witnesses against him; to have compulsory process to obtain witnesses in his behalf; to be released on bail upon sufficient security, except in capital offenses, where the proof is evident or the presumption great; and in all prosecutions by information, to a speedy, public trial by an impartial jury. No person shall be compelled to give evidence against himself, nor be deprived of life, liberty or property without due process of law, nor shall excessive bail be required nor excessive fines imposed. No person shall be held to answer for any crime, punishable by death</p> |

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| | <p>or life imprisonment, unless upon probable cause shown at a hearing in accordance with procedures prescribed by law, except in the armed forces, or in the militia when in actual service in time of war or public danger.</p> <p>b. In all criminal prosecutions, a victim, as the general assembly may define by law, shall have the following rights: (1) the right to be treated with fairness and respect throughout the criminal justice process; (2) the right to timely disposition of the case following arrest of the accused, provided no right of the accused is abridged; (3) the right to be reasonably protected from the accused throughout the criminal justice process; (4) the right to notification of court proceedings; (5) the right to attend the trial and all other court proceedings the accused has the right to attend, unless such person is to testify and the court determines that such person's testimony would be materially affected if such person hears other testimony; (6) the right to communicate with the prosecution; (7) the right to object to or support any plea agreement entered into by the accused and the prosecution and to make a statement to the court prior to the acceptance by the court of the plea of guilty or nolo contendere by the accused; (8) the right to make a statement to the court at sentencing; (9) the right to restitution which shall be enforceable in the same manner as any other cause of action or as otherwise provided by law; and (10) the right to information about the arrest, conviction, sentence, imprisonment and release of the accused. The general assembly shall provide by law for the enforcement of this subsection. Nothing in this subsection or in any law enacted pursuant to this subsection shall be construed as creating a basis for vacating a conviction or ground for appellate relief in any criminal case.</p> <p><i>Conn. Gen. Stat. § 53a-28 (Authorized sentences).</i></p> <p>(a) Except as provided in section 17a-699 and chapter 420b,1 to the extent that the provisions of said section and chapter are inconsistent herewith, every person convicted of an offense shall be sentenced in accordance with this title.</p> <p>(b) Except as provided in section 53a-46a, when a person is convicted of an offense, the court shall impose one of the following sentences: (1) A term of imprisonment; or (2) a sentence authorized by section 18-65a or 18-73; or (3) a fine; or (4) a term of imprisonment and a fine; or (5) a term of imprisonment, with the execution of such sentence of imprisonment suspended, entirely or after a period set by the court, and a period of probation or a period of conditional discharge; or (6) a term of imprisonment, with the execution of such sentence of imprisonment suspended, entirely or after a period set by the court, and a fine and a period of probation or a period of conditional discharge; or (7) a fine and a sentence authorized by section 18-65a or 18-73; or (8) a sentence of unconditional discharge; or (9) a term of imprisonment and a period of special parole as provided in section 54-125e, except that the court may not impose a period of special parole for convictions of offenses under chapter 420b.</p> |

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| | <p>(c) In addition to any sentence imposed pursuant to subsection (b) of this section, the court shall inquire on the record whether there are any requests by a victim for restitution, and if (1) a person is convicted of an offense that resulted in injury to another person or damage to or loss of property, (2) the victim requests financial restitution, and (3) the court finds that the victim has suffered injury or damage to or loss of property as a result of such offense, the court shall order the offender to make financial restitution under terms that it determines are appropriate. In determining the appropriate terms of financial restitution, the court shall consider: (A) The financial resources of the offender and the burden restitution will place on other obligations of the offender; (B) the offender's ability to pay based on installments or other conditions; (C) the rehabilitative effect on the offender of the payment of restitution and the method of payment; and (D) other circumstances, including the financial burden and impact on the victim, that the court determines make the terms of restitution appropriate. If the court determines that the current financial resources of the offender or the offender's current ability to pay based on installments or other conditions are such that no appropriate terms of restitution can be determined, the court may forego setting such terms. The court shall articulate its findings on the record with respect to each of the factors set forth in subparagraphs (A) to (D), inclusive, of this subsection. Restitution ordered by the court pursuant to this subsection shall be based on easily ascertainable damages for injury or loss of property, actual expenses incurred for treatment for injury to persons and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering or other intangible losses, but may include the costs of counseling reasonably related to the offense. Restitution ordered by the court pursuant to this subsection shall be imposed or directed by a written order of the court on a form prescribed by the Chief Court Administrator containing the amount of damages for injury or loss of property, actual expenses incurred for treatment for injury to persons and lost wages resulting from injury as ascertained by the court. The order of the court shall direct that a certified copy of the completed form containing the written order be delivered by certified mail to each victim and contain an advisement to the victim that the order is enforceable as a judgment in a civil action as provided in section 53a-28a. The court shall retain the original of each form containing a written order of restitution as part of such offender's court record.</p> <p>(d) A sentence to a period of probation or conditional discharge in accordance with sections 53a-29 to 53a-34, inclusive, shall be deemed a revocable disposition, in that such sentence shall be tentative to the extent that it may be altered or revoked in accordance with said sections but for all other purposes it shall be deemed to be a final judgment of conviction.</p> <p>(e) When sentencing a person to a period of probation who has been convicted of (1) a misdemeanor that did not involve the use, attempted use or threatened use of physical force against another person or (2) a motor vehicle violation for which a sentence to a term of imprisonment may be imposed, the court shall consider, as a</p> |

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| | <p>condition of such sentence of probation, ordering the person to perform community service in the community in which the offense or violation occurred. If the court determines that community service is appropriate, such community service may be implemented by a community court established in accordance with section 51-181c if the offense or violation occurred within the jurisdiction of a community court established by said section.</p> <p>(f) When sentencing a person to a period of probation who is or has been subject to a protective order, the court may issue a protective order that is effective during such period of probation.</p> <p><i>Conn. Gen. Stat. § 53a-30 (Conditions of probation and conditional discharge).</i></p> <p>(a) When imposing sentence of probation or conditional discharge, the court may, as a condition of the sentence, order that the defendant: (1) Work faithfully at a suitable employment or faithfully pursue a course of study or of vocational training that will equip the defendant for suitable employment; (2) undergo medical or psychiatric treatment and remain in a specified institution, when required for that purpose; (3) support the defendant's dependents and meet other family obligations; (4) make restitution of the fruits of the defendant's offense or make restitution, in an amount the defendant can afford to pay or provide in a suitable manner, for the loss or damage caused thereby. The court or the Court Support Services Division, if authorized by the court, may fix the amount thereof and the manner of performance, and the victim shall be advised by the court or the Court Support Services Division that restitution ordered under this section may be enforced pursuant to section 53a-28a; (5) if a minor, (A) reside with the minor's parents or in a suitable foster home, (B) attend school, and (C) contribute to the minor's own support in any home or foster home; (6) post a bond or other security for the performance of any or all conditions imposed; (7) refrain from violating any criminal law of the United States, this state or any other state; (8) if convicted of a misdemeanor or a felony, other than a capital felony under the provisions of section 53a-54b in effect prior to April 25, 2012, a class A felony or a violation of section 21a-278, 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-57, 53a-58 or 53a-70b or any offense for which there is a mandatory minimum sentence which may not be suspended or reduced by the court, and any sentence of imprisonment is suspended, participate in an alternate incarceration program; (9) reside in a residential community center or halfway house approved by the Commissioner of Correction, and contribute to the cost incident to such residence; (10) participate in a program of community service labor in accordance with section 53a-39c; (11) participate in a program of community service in accordance with section 51-181c; (12) if convicted of a violation of subdivision (2) of subsection (a) of section 53-21, section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, undergo specialized sexual offender treatment; (13) if convicted of a criminal offense against a victim who is a minor, a nonviolent sexual offense or a sexually violent offense, as defined in section 54-250, or of a felony that the court finds was committed for a sexual purpose, as provided in section</p> |

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| | <p>54-254, register such person’s identifying factors, as defined in section 54-250, with the Commissioner of Emergency Services and Public Protection when required pursuant to section 54-251, 54-252 or 54-253, as the case may be; (14) be subject to electronic monitoring, which may include the use of a global positioning system; (15) if convicted of a violation of section 46a-58, 53-37a, 53a-181j, 53a-181k or 53a-181l, participate in an anti-bias or diversity awareness program or participate in a program of community service designed to remedy damage caused by the commission of a bias crime or otherwise related to the defendant’s violation; (16) if convicted of a violation of section 53-247, undergo psychiatric or psychological counseling or participate in an animal cruelty prevention and education program provided such a program exists and is available to the defendant; or (17) satisfy any other conditions reasonably related to the defendant’s rehabilitation. The court shall cause a copy of any such order to be delivered to the defendant and to the probation officer, if any.</p> <p>(b) When a defendant has been sentenced to a period of probation, the Court Support Services Division may require that the defendant comply with any or all conditions which the court could have imposed under subsection (a) of this section which are not inconsistent with any condition actually imposed by the court.</p> <p>(c) At any time during the period of probation or conditional discharge, after hearing and for good cause shown, the court may modify or enlarge the conditions, whether originally imposed by the court under this section or otherwise, and may extend the period, provided the original period with any extensions shall not exceed the periods authorized by section 53a-29. The court shall cause a copy of any such order to be delivered to the defendant and to the probation officer, if any.</p> <p>(d) The period of participation in an alternate incarceration program, unless terminated sooner, shall not exceed the period of probation authorized by section 53a-29 or two years, whichever is less.</p> <p>(e) The court may require that the person subject to electronic monitoring pursuant to subsection (a) of this section pay directly to the electronic monitoring service provider a fee for the cost of such electronic monitoring services. If the court finds that the person subject to electronic monitoring is indigent and unable to pay the costs of electronic monitoring services, it shall waive such costs. Any contract entered into by the Judicial Branch and the electronic monitoring service provider shall include a provision stating that the total cost for electronic monitoring services shall not exceed six dollars per day. Such amount shall be indexed annually to reflect the rate of inflation.</p> |
| Delaware | <i>Del. Code Ann. tit. 11, § 4106 (Restitution for property damage or loss).</i> |

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| | <p>(a) Any person convicted of stealing, taking, receiving, converting, defacing or destroying property, shall be liable to each victim of the offense for the value of the property or property rights lost to the victim and for the value of any property which has diminished in worth as a result of the actions of such convicted offender and shall be ordered by the court to make restitution. If the court does not require that restitution be paid to a victim, the court shall state its reason on the record. The convicted offender shall also be liable for direct out-of-pocket losses, loss of earnings and other expenses and inconveniences incurred by victim as a direct result of the crime. For each criminal offense resulting in arrest in which property is alleged to have been unlawfully taken, damaged or otherwise diminished in value, a loss statement shall be prepared, by the police or by the victim when there is no police involvement, documenting for the court the value of the property lost or diminished as a direct result of the crime.</p> <p>(b) In accordance with the evidence presented to the court, the court shall determine the nature and amount of restitution, if any, to be made to each victim of the crime of each convicted offender. The offender shall be ordered to pay a fixed sum of restitution or shall be ordered to work a fixed number of hours under the work referral program administered by the Department of Correction, or both.</p> <p>(c) In the event a convicted offender is ordered by the court to pay fines, costs or other financial obligations along with restitution, payments shall first be applied to Victim Compensation Fund, next to pay restitution and then to the other payments ordered to be made.</p> <p>(d) Each court shall establish procedures for the collection and disbursement of funds ordered under this section, including notification of the victim that restitution has been ordered. Such procedures shall at minimum include the following:</p> <ol style="list-style-type: none"> (1) All restitution payments shall be disbursed to victims within 90 days of receipt or whenever the accumulated amount of the restitution payments received is \$50 or more, whichever event first occurs. (2) Where there are multiple victims, disbursements shall be in proportion to the amounts owed to each victim, with individuals to receive disbursements in full before insurance companies receive any disbursements. (3) Any and all interest earned on deposited restitution payments shall be set aside and deposited on at least a quarterly basis to the Victim Compensation Fund. <p>Any and all principal amounts received as restitution payments which are unclaimed after 5 years from date of receipt shall be deposited in the Victim Compensation Fund.</p> <p>If, at any time in the future, the victim owed restitution requests the transferred funds, and makes application to the Victim Compensation Fund Board, said moneys will be refunded, following verification by the transferring Court.</p> |

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| | <p>(e) An order of restitution may not preclude the victim from proceeding in a civil action to recover damages from the offender. A civil verdict shall be reduced by the amount of restitution paid under the criminal restitution order.</p> <p><i>Del. Code Ann. tit. 11, § 4204 (Authorized disposition of convicted offenders).</i></p> <p>(a) Every person convicted of an offense shall be sentenced in accordance with this Criminal Code, with the exception of an environmental misdemeanor as defined in § 1304 of Title 7. This section applies to all judgments of conviction, whether entered after a trial or upon a plea of guilty or nolo contendere.</p> <p>(b) A person convicted of a class A felony may be sentenced to life imprisonment in accordance with § 4205 of this title, unless the conviction is for first-degree murder, in which event § 4209 of this title shall apply. Notwithstanding any other statute, a sentence under § 4209 of this title may not be suspended or reduced by the court.</p> <p>(c) When a person is convicted of any offense other than a class A felony the court may take the following action:</p> <p>(1) Impose a sentence involving an Accountability Level I sanction. --Such sanctions include imposition of a fine as provided by law for the offense or placement of the offender upon unsupervised probation with or without special conditions, or with or without the imposition of a fine as provided by law for the offense;</p> <p>(2) Impose a sentence involving an Accountability Level II sanction. --Such a sanction includes a placement of the offender upon supervised probation amounting to field supervision rather than intensive supervision, with or without special conditions, or with or without the imposition of a fine as provided by law for the offense;</p> <p>(3) Impose a sentence involving an Accountability Level III sanction. --Such sanctions include placement of the offender upon intensive supervision or placement of the offender upon community service, with or without special conditions, or with or without the imposition of a fine as provided by law for the offense. Such intensive supervision shall entail at least the equivalent of 1 hour of supervision per day and no more than 56 hours of supervision per week;</p> <p>(4) Impose a sentence involving an Accountability Level IV sanction. --Such sanctions include placement of the offender upon partial confinement under house arrest under the supervision of the Department of Correction or commitment of the offender to the Department of Correction under partial confinement to a half-way house or restitution center or placement of the offender in a residential treatment facility, all with or without special conditions, and all with or without the imposition of a fine as provided by law for the offense;</p> |

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| | <p>(5) Impose a sentence involving an Accountability Level V sanction. --Such a sentence consists of the commitment of the offender to the Department of Correction for a period of incarceration, with or without the imposition of a fine provided by law for the offense;</p> <p>(6) Impose a period of incarceration, with or without the imposition of a fine provided by law for the offense, and placement of the offender in a less restrictive sanction, with or without special conditions, to commence when the offender is released from incarceration;</p> <p>(7) Suspend the imposition or execution of sentence, or suspend a portion thereof;</p> <p>(8) Impose any sentence as authorized in this subsection to include any special condition such as the payment of restitution to the victim or victims of the crime for which the offender is being sentenced and/or participation in a drug/alcohol outpatient treatment program, job training program, mental health treatment program, education program, community service program or other like programs. With regard to any such programs, the offender may be ordered to pay a fee covering, in whole or in part, the costs of such program and such fees shall be based upon the offender's ability to pay therefor;</p> <p>(9) Wherever a victim of crime suffers a monetary loss as a result of the defendant's criminal conduct, the sentencing court shall impose as a special condition of the sentence that the defendant make payment of restitution to the victim in such amount as to make the victim whole, insofar as possible, for the loss sustained. Notwithstanding any law, rule or regulation to the contrary, for the purposes of ensuring the payment of restitution the court shall retain jurisdiction over the offender until the amount of restitution ordered has been paid in full;</p> <p>(10) Whenever restitution is ordered pursuant to paragraph (c)(9) of this section or any other applicable statute or rule, and if deemed appropriate to ensure or facilitate the collection of restitution from the defendant or if otherwise required by statute, the court may impose a sentence involving an Accountability Level I--Restitution Only sanction. Such a sanction shall be limited to the placement of the offender upon unsupervised probation, and the conditions of such probation shall be limited to those that are necessary to ensure or facilitate the collection of restitution. No offender shall be found to be in violation of the conditions of such a sanction unless the offender is found to be in violation of an applicable restitution order.</p> <p>(d) Notwithstanding anything in this Criminal Code to the contrary, probation or a suspended sentence shall not be substituted for imprisonment where the statute specifically indicates that a prison sentence is a mandatory sentence, a minimum sentence, a minimum mandatory sentence or a mandatory minimum sentence, or may not otherwise be suspended.</p> |

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| | <p>(e) The court may authorize the payment of a fine in installments. When imposing probation the court shall direct that the offender be subject to the supervision of the Department of Correction and the court order shall specify those conditions under which the offender may remain at liberty on probation.</p> <p>(f) In committing an offender to the Department of Correction the court shall fix the maximum term of incarceration.</p> <p>(g) Where modification of judgment is not provided by rule of court, the court may modify a judgment within 90 days after it is ordered. Dispositions other than commitment to the Department of Correction, and such commitments which are revoked, shall not entail the loss by the offender of any civil rights, except as provided in the state Constitution.</p> <p>(h) The court may direct that a person placed on probation be released on entering into a recognizance, with or without surety, during such period as the court directs, to appear and receive sentence when called upon, and, in the meantime, to keep the peace and be of good behavior.</p> <p>(i) The court may, if it thinks proper, direct that the offender pay the costs of the prosecution or some portion thereof, and may further impose terms and conditions to be complied with by the offender during any period which it deems proper.</p> <p>(j) At any time within the period mentioned in the recognizance, but not afterwards, the court may, upon being satisfied by information on oath that the offender has failed to observe any of the conditions of recognizance, or any of the terms or conditions of probation, issue an order for the offender's apprehension and thereupon, after proper hearing, impose sentence upon the offender.</p> <p>(k)(1) Except as provided in this subsection, notwithstanding any statute, rule, regulation or guideline to the contrary, the court may direct as a condition to a sentence of imprisonment to be served at Level V or otherwise that all or a specified portion of said sentence shall be served without benefit of any form of early release, good time, furlough, work release, supervised custody or any other form of reduction or diminution of sentence.</p> <p>(2) For the purposes of this subsection, statutes which authorize early release, good time, furlough, work release, supervised custody, or reduction or diminution of sentence include but are not limited to §§ 4205(h) and (i), 4206(g) and (h), 4217, 4381, 6533, 6533A [repealed] and 6537-6539 of this title.</p> <p>(3) The provisions of this subsection shall be applicable only to sentences of imprisonment at Level V for 1 year or less, or to sentences of imprisonment at Level V which are equal to the statutory maximum Level V sentence available for the crime or offense.</p> <p>(l) Except when the court imposes a life sentence or sentence of death, whenever a court imposes a period of incarceration at Level V custody for 1 or more offenses that totals 1 year or more, then that court must include as part of its sentence a period of custodial supervision at either Level IV, III or II for a period of not less than 6</p> |

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| | <p>months to facilitate the transition of the individual back into society. The 6-month transition period required by this subsection may, at the discretion of the court, be in addition to the maximum sentence of imprisonment established by the statute.</p> <p>(m) As a condition of any sentence, and regardless of whether such sentence includes a period of probation or suspension of sentence, the court may order the offender to engage in a specified act or acts, or to refrain from engaging in a specified act or acts, as deemed necessary by the court to ensure the public peace, the safety of the victim or the public, the rehabilitation of the offender, the satisfaction of the offender’s restitution obligation to the victim or the offender’s financial obligations to the State, or for any other purpose consistent with the interests of justice. The duration of any order entered pursuant to this subsection shall not exceed the maximum term of commitment provided by law for the offense or 1 year, whichever is greater; provided that in all cases where no commitment is provided by law the duration of such order shall not exceed 1 year. A violation of any order issued pursuant to this subsection shall be prosecuted pursuant to § 1271 of this title. Any such prosecution pursuant to § 1271 of this title shall not preclude prosecution under any other provision of this Code.</p> <p>(n) Whenever a court imposes a sentence inconsistent with the presumptive sentences adopted by the Sentencing Accountability Commission, such court shall set forth on the record its reasons for imposing such penalty.</p> |
| <p>District of Columbia</p> | <p><i>D.C. Code § 22-3227.01 (Definitions).</i></p> <p>For the purposes of this subchapter, the term:</p> <p>(1) “Financial injury” means all monetary costs, debts, or obligations incurred by a person as a result of another person obtaining, creating, possessing, or using that person’s personal identifying information in violation of this subchapter, including, but not limited to:</p> <p>(A) The costs of clearing the person’s credit rating, credit history, criminal record, or any other official record, including attorney fees;</p> <p>(B) The expenses related to any civil or administrative proceeding to satisfy or contest a debt, lien, judgment, or other obligation of the person that arose as a result of the violation of this subchapter, including attorney fees;</p> <p>(C) The costs of repairing or replacing damaged or stolen property;</p> <p>(D) Lost time or wages, or any similar monetary benefit forgone while the person is seeking redress for damages resulting from a violation of this subchapter; and</p> |

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| | <p>(E) Lost time, wages, and benefits, other losses sustained, legal fees, and other expenses incurred as a result of the use, without permission, of one’s personal identifying information by another as prohibited by § 22-3227.02.</p> <p>....</p> <p><i>D.C. Code § 22-3227.04 (Restitution).</i> When a person is convicted of identity theft, the court may, in addition to any other applicable penalty, order restitution for the full amount of financial injury.</p> <p><i>D.C. Code § 23-1901 (Crime victims’ bill of rights).</i></p> <p>...</p> <p>(b) A crime victim has the right to:</p> <p>...</p> <p>(6) An order of restitution from the person convicted of the criminal conduct that caused the victim’s loss or injury;</p> <p>....</p> |
| <p>Florida</p> | <p><i>Fla. Const. art. I, § 16 (Rights of accused and of victims).</i></p> <p>(a) In all criminal prosecutions the accused shall, upon demand, be informed of the nature and cause of the accusation, and shall be furnished a copy of the charges, and shall have the right to have compulsory process for witnesses, to confront at trial adverse witnesses, to be heard in person, by counsel or both, and to have a speedy and public trial by impartial jury in the county where the crime was committed. If the county is not known, the indictment or information may charge venue in two or more counties conjunctively and proof that the crime was committed in that area shall be sufficient; but before pleading the accused may elect in which of those counties the trial will take place. Venue for prosecution of crimes committed beyond the boundaries of the state shall be fixed by law.</p> <p>(b) To preserve and protect the right of crime victims to achieve justice, ensure a meaningful role throughout the criminal and juvenile justice systems for crime victims, and ensure that crime victims’ rights and interests are respected and protected by law in a manner no less vigorous than protections afforded to criminal defendants and juvenile delinquents, every victim is entitled to the following rights, beginning at the time of his or her victimization:</p> |

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| | <p>(1) The right to due process and to be treated with fairness and respect for the victim’s dignity.</p> <p>(2) The right to be free from intimidation, harassment, and abuse.</p> <p>(3) The right, within the judicial process, to be reasonably protected from the accused and any person acting on behalf of the accused. However, nothing contained herein is intended to create a special relationship between the crime victim and any law enforcement agency or office absent a special relationship or duty as defined by Florida law.</p> <p>(4) The right to have the safety and welfare of the victim and the victim’s family considered when setting bail, including setting pretrial release conditions that protect the safety and welfare of the victim and the victim’s family.</p> <p>(5) The right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family, or which could disclose confidential or privileged information of the victim.</p> <p>(6) A victim shall have the following specific rights upon request:</p> <p>a. The right to reasonable, accurate, and timely notice of, and to be present at, all public proceedings involving the criminal conduct, including, but not limited to, trial, plea, sentencing, or adjudication, even if the victim will be a witness at the proceeding, notwithstanding any rule to the contrary. A victim shall also be provided reasonable, accurate, and timely notice of any release or escape of the defendant or delinquent, and any proceeding during which a right of the victim is implicated.</p> <p>b. The right to be heard in any public proceeding involving pretrial or other release from any form of legal constraint, plea, sentencing, adjudication, or parole, and any proceeding during which a right of the victim is implicated.</p> <p>c. The right to confer with the prosecuting attorney concerning any plea agreements, participation in pretrial diversion programs, release, restitution, sentencing, or any other disposition of the case.</p> <p>d. The right to provide information regarding the impact of the offender’s conduct on the victim and the victim’s family to the individual responsible for conducting any presentence investigation or compiling any presentence investigation report, and to have any such information considered in any sentencing recommendations submitted to the court.</p> <p>e. The right to receive a copy of any presentence report, and any other report or record relevant to the exercise of a victim’s right, except for such portions made confidential or exempt by law.</p> <p>f. The right to be informed of the conviction, sentence, adjudication, place and time of incarceration, or other disposition of the convicted offender, any scheduled release date of the offender, and the release of or the escape of the offender from custody.</p> |

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| | <p>g. The right to be informed of all postconviction processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be considered before any release decision is made, and to be notified of any release decision regarding the offender. The parole or early release authority shall extend the right to be heard to any person harmed by the offender.</p> <p>h. The right to be informed of clemency and expungement procedures, to provide information to the governor, the court, any clemency board, and other authority in these procedures, and to have that information considered before a clemency or expungement decision is made; and to be notified of such decision in advance of any release of the offender.</p> <p>(7) The rights of the victim, as provided in subparagraph (6)a., subparagraph (6)b., or subparagraph (6)c., that apply to any first appearance proceeding are satisfied by a reasonable attempt by the appropriate agency to notify the victim and convey the victim's views to the court.</p> <p>(8) The right to the prompt return of the victim's property when no longer needed as evidence in the case.</p> <p>(9) The right to full and timely restitution in every case and from each convicted offender for all losses suffered, both directly and indirectly, by the victim as a result of the criminal conduct.</p> <p>(10) The right to proceedings free from unreasonable delay, and to a prompt and final conclusion of the case and any related postjudgment proceedings.</p> <p>a. The state attorney may file a good faith demand for a speedy trial and the trial court shall hold a calendar call, with notice, within fifteen days of the filing demand, to schedule a trial to commence on a date at least five days but no more than sixty days after the date of the calendar call unless the trial judge enters an order with specific findings of fact justifying a trial date more than sixty days after the calendar call.</p> <p>b. All state-level appeals and collateral attacks on any judgment must be complete within two years from the date of appeal in non-capital cases and within five years from the date of appeal in capital cases, unless a court enters an order with specific findings as to why the court was unable to comply with this subparagraph and the circumstances causing the delay. Each year, the chief judge of any district court of appeal or the chief justice of the supreme court shall report on a case-by-case basis to the speaker of the house of representatives and the president of the senate all cases where the court entered an order regarding inability to comply with this subparagraph. The legislature may enact legislation to implement this subparagraph.</p> <p>(11) The right to be informed of these rights, and to be informed that victims can seek the advice of an attorney with respect to their rights. This information shall be made available to the general public and provided to all crime victims in the form of a card or by other means intended to effectively advise the victim of their rights under this section.</p> |

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| | <p>(c) The victim, the retained attorney of the victim, a lawful representative of the victim, or the office of the state attorney upon request of the victim, may assert and seek enforcement of the rights enumerated in this section and any other right afforded to a victim by law in any trial or appellate court, or before any other authority with jurisdiction over the case, as a matter of right. The court or other authority with jurisdiction shall act promptly on such a request, affording a remedy by due course of law for the violation of any right. The reasons for any decision regarding the disposition of a victim’s right shall be clearly stated on the record.</p> <p>(d) The granting of the rights enumerated in this section to victims may not be construed to deny or impair any other rights possessed by victims. The provisions of this section apply throughout criminal and juvenile justice processes, are self-executing, and do not require implementing legislation. This section may not be construed to create any cause of action for damages against the state or a political subdivision of the state, or any officer, employee, or agent of the state or its political subdivisions.</p> <p>(e) As used in this section, a “victim” is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act or against whom the crime or delinquent act is committed. The term “victim” includes the victim’s lawful representative, the parent or guardian of a minor, or the next of kin of a homicide victim, except upon a showing that the interest of such individual would be in actual or potential conflict with the interests of the victim. The term “victim” does not include the accused. The terms “crime” and “criminal” include delinquent acts and conduct.</p> <p><i>Fla. Stat. Ann. § 775.089 (Restitution).</i></p> <p>(1)(a) In addition to any punishment, the court shall order the defendant to make restitution to the victim for:</p> <ol style="list-style-type: none"> 1. Damage or loss caused directly or indirectly by the defendant’s offense; and 2. Damage or loss related to the defendant’s criminal episode, <p>unless it finds clear and compelling reasons not to order such restitution. Restitution may be monetary or nonmonetary restitution. The court shall make the payment of restitution a condition of probation in accordance with s. 948.03. An order requiring the defendant to make restitution to a victim does not remove or diminish the requirement that the court order payment to the Crimes Compensation Trust Fund pursuant to chapter 960. Payment of an award by the Crimes Compensation Trust Fund shall create an order of restitution to the Crimes Compensation Trust Fund, unless specifically waived in accordance with subparagraph (b)1.</p> <p>(b)1. If the court does not order restitution, or orders restitution of only a portion of the damages, as provided in this section, it shall state on the record in detail the reasons therefor.</p> <ol style="list-style-type: none"> 2. An order of restitution entered as part of a plea agreement is as definitive and binding as any other order of restitution, and a statement to such effect must be made part of the plea agreement. A plea agreement may |

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| | <p>contain provisions that order restitution relating to criminal offenses committed by the defendant to which the defendant did not specifically enter a plea.</p> <p>(c) The term “victim” as used in this section and in any provision of law relating to restitution means:</p> <ol style="list-style-type: none"> 1. Each person who suffers property damage or loss, monetary expense, or physical injury or death as a direct or indirect result of the defendant’s offense or criminal episode, and also includes the victim’s estate if the victim is deceased, and the victim’s next of kin if the victim is deceased as a result of the offense. The term includes governmental entities and political subdivisions, as those terms are defined in s. 11.45, when such entities are a direct victim of the defendant’s offense or criminal episode and not merely providing public services in response to the offense or criminal episode. 2. The term also includes the victim’s trade association if the offense is a violation of s. 540.11(3)(a) 3. involving the sale, or possession for purposes of sale, of physical articles and the victim has granted the trade association written authorization to represent the victim’s interests in criminal legal proceedings and to collect restitution on the victim’s behalf. The restitution obligation in this subparagraph relating to violations of s. 540.11(3)(a) 3. applies only to physical articles and does not apply to electronic articles or digital files that are distributed or made available online. As used in this subparagraph, the term “trade association” means an organization founded and funded by businesses that operate in a specific industry to protect their collective interests. <p>(2)(a) When an offense has resulted in bodily injury to a victim, a restitution order entered under subsection (1) shall require that the defendant:</p> <ol style="list-style-type: none"> 1. Pay the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a recognized method of healing. 2. Pay the cost of necessary physical and occupational therapy and rehabilitation. 3. Reimburse the victim for income lost by the victim as a result of the offense. 4. In the case of an offense which resulted in bodily injury that also resulted in the death of a victim, pay an amount equal to the cost of necessary funeral and related services. <p>(b) When an offense has not resulted in bodily injury to a victim, a restitution order entered under subsection (1) may require that the defendant reimburse the victim for income lost by the victim as a result of the offense.</p> <p>(3)(a) The court may require that the defendant make restitution under this section within a specified period or in specified installments.</p> <p>(b) The end of such period or the last such installment shall not be later than:</p> <ol style="list-style-type: none"> 1. The end of the period of probation if probation is ordered; |

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| | <p>2. Five years after the end of the term of imprisonment imposed if the court does not order probation; or</p> <p>3. Five years after the date of sentencing in any other case.</p> <p>(c) Notwithstanding this subsection, a court that has ordered restitution for a misdemeanor offense shall retain jurisdiction for the purpose of enforcing the restitution order for any period, not to exceed 5 years, that is pronounced by the court at the time restitution is ordered.</p> <p>(d) If not otherwise provided by the court under this subsection, restitution must be made immediately. If the restitution ordered by the court is not made within the time period specified, the court may continue the restitution order through the duration of the civil judgment provision set forth in subsection (5) and as provided in s. 55.10.</p> <p>(4) If a defendant is placed on probation or paroled, complete satisfaction of any restitution ordered under this section shall be a condition of such probation or parole. The court may revoke probation, and the Florida Commission on Offender Review may revoke parole, if the defendant fails to comply with such order.</p> <p>(5) An order of restitution may be enforced by the state, or by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action. The outstanding unpaid amount of the order of restitution bears interest in accordance with s. 55.03, and, when properly recorded, becomes a lien on real estate owned by the defendant. If civil enforcement is necessary, the defendant shall be liable for costs and attorney's fees incurred by the victim in enforcing the order.</p> <p>(6)(a) The court, in determining whether to order restitution and the amount of such restitution, shall consider the amount of the loss sustained by any victim as a result of the offense.</p> <p>(b) The criminal court, at the time of enforcement of the restitution order, shall consider the financial resources of the defendant, the present and potential future financial needs and earning ability of the defendant and his or her dependents, and such other factors which it deems appropriate.</p> <p>(7) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense is on the state attorney. The burden of demonstrating the present financial resources and the absence of potential future financial resources of the defendant and the financial needs of the defendant and his or her dependents is on the defendant. The burden of demonstrating such other matters as the court deems appropriate is upon the party designated by the court as justice requires.</p> <p>(8) The conviction of a defendant for an offense involving the act giving rise to restitution under this section shall estop the defendant from denying the essential allegations of that offense in any subsequent civil proceeding. An order of restitution hereunder will not bar any subsequent civil remedy or recovery, but the amount of such restitution shall be set off against any subsequent independent civil recovery.</p> |

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| | <p>(9) When a corporation or unincorporated association is ordered to make restitution, the person authorized to make disbursements from the assets of such corporation or association shall pay restitution from such assets, and such person may be held in contempt for failure to make such restitution.</p> <p>(10)(a) Any default in payment of restitution may be collected by any means authorized by law for enforcement of a judgment.</p> <p>(b) The restitution obligation is not subject to discharge in bankruptcy, whether voluntary or involuntary, or to any other statutory or common-law proceeding for relief against creditors.</p> <p>(11)(a) The court may order the clerk of the court to collect and dispense restitution payments in any case.</p> <p>(b) The court may order the Department of Corrections to collect and dispense restitution and other payments from persons remanded to its custody or supervision.</p> <p>(12)(a) Issuance of income deduction order with an order for restitution.--</p> <ol style="list-style-type: none"> 1. Upon the entry of an order for restitution, the court shall enter a separate order for income deduction if one has not been entered. 2. The income deduction order shall direct a payor to deduct from all income due and payable to the defendant the amount required by the court to meet the defendant's obligation. 3. The income deduction order shall be effective so long as the order for restitution upon which it is based is effective or until further order of the court. 4. When the court orders the income deduction, the court shall furnish to the defendant a statement of his or her rights, remedies, and duties in regard to the income deduction order. The statement shall state: <ol style="list-style-type: none"> a. All fees or interest which shall be imposed. b. The total amount of income to be deducted for each pay period. c. That the income deduction order applies to current and subsequent payors and periods of employment. d. That a copy of the income deduction order will be served on the defendant's payor or payors. e. That enforcement of the income deduction order may only be contested on the ground of mistake of fact regarding the amount of restitution owed. f. That the defendant is required to notify the clerk of court within 7 days after changes in the defendant's address, payors, and the addresses of his or her payors. <p>(b) Enforcement of income deduction orders.--</p> <ol style="list-style-type: none"> 1. The clerk of court or probation officer shall serve an income deduction order and the notice to payor on the defendant's payor unless the defendant has applied for a hearing to contest the enforcement of the income deduction order. |

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| | <p>2. a. Service by or upon any person who is a party to a proceeding under this subsection shall be made in the manner prescribed in the Florida Rules of Civil Procedure for service upon parties.</p> <p>b. Service upon the defendant’s payor or successor payor under this subsection shall be made by prepaid certified mail, return receipt requested, or in the manner prescribed in chapter 48.</p> <p>3. The defendant, within 15 days after having an income deduction order entered against him or her, may apply for a hearing to contest the enforcement of the income deduction order on the ground of mistake of fact regarding the amount of restitution owed. The timely request for a hearing shall stay the service of an income deduction order on all payors of the defendant until a hearing is held and a determination is made as to whether the enforcement of the income deduction order is proper.</p> <p>4. The notice to payor shall contain only information necessary for the payor to comply with the income deduction order. The notice shall:</p> <p>a. Require the payor to deduct from the defendant’s income the amount specified in the income deduction order and to pay that amount to the clerk of court.</p> <p>b. Instruct the payor to implement the income deduction order no later than the first payment date which occurs more than 14 days after the date the income deduction order was served on the payor.</p> <p>c. Instruct the payor to forward within 2 days after each payment date to the clerk of court the amount deducted from the defendant’s income and a statement as to whether the amount totally or partially satisfies the periodic amount specified in the income deduction order.</p> <p>d. Specify that, if a payor fails to deduct the proper amount from the defendant’s income, the payor is liable for the amount the payor should have deducted plus costs, interest, and reasonable attorney’s fees.</p> <p>e. Provide that the payor may collect up to \$5 against the defendant’s income to reimburse the payor for administrative costs for the first income deduction and up to \$2 for each deduction thereafter.</p> <p>f. State that the income deduction order and the notice to payor are binding on the payor until further notice by the court or until the payor no longer provides income to the defendant.</p> <p>g. Instruct the payor that, when he or she no longer provides income to the defendant, the payor shall notify the clerk of court and shall also provide the defendant’s last known address and the name and address of the defendant’s new payor, if known, and that, if the payor violates this provision, the payor is subject to a civil penalty not to exceed \$250 for the first violation or \$500 for any subsequent violation.</p> <p>h. State that the payor shall not discharge, refuse to employ, or take disciplinary action against the defendant because of an income deduction order and shall state that a violation of this provision subjects the payor to a civil penalty not to exceed \$250 for the first violation or \$500 for any subsequent violation.</p> |

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| | <p>i. Inform the payor that, when he or she receives income deduction orders requiring that the income of two or more defendants be deducted and sent to the same clerk of court, the payor may combine the amounts that are to be paid to the depository in a single payment as long as he or she identifies that portion of the payment attributable to each defendant.</p> <p>j. Inform the payor that if the payor receives more than one income deduction order against the same defendant, he or she shall contact the court for further instructions.</p> <p>5. The clerk of court shall enforce income deduction orders against the defendant’s successor payor who is located in this state in the same manner prescribed in this subsection for the enforcement of an income deduction order against an original payor.</p> <p>6. A person may not discharge, refuse to employ, or take disciplinary action against an employee because of the enforcement of an income deduction order. An employer who violates this provision is subject to a civil penalty not to exceed \$250 for the first violation or \$500 for any subsequent violation.</p> <p>7. When a payor no longer provides income to a defendant, the payor shall notify the clerk of court and shall provide the defendant’s last known address and the name and address of the defendant’s new payor, if known. A payor who violates this provision is subject to a civil penalty not to exceed \$250 for the first violation or \$500 for a subsequent violation.</p> |
| <p>Georgia</p> | <p><i>Ga. Code Ann. § 17-14-1 (Policy).</i> It is declared to be the policy of this state that restitution to their victims by those found guilty of crimes or adjudicated as having committed delinquent acts is a primary concern of the criminal justice system and the juvenile justice system.</p> <p><i>Ga. Code Ann. § 17-14-2 (Definitions).</i> As used in this article, the term:</p> <p>(1) “Conviction” means an adjudication of guilt of or a plea of guilty or nolo contendere to the commission of an offense against the laws of this state. Such term includes any such conviction or plea, notwithstanding the fact that sentence was imposed pursuant to Article 3 of Chapter 8 of Title 42. Such term also includes the adjudication or plea of a juvenile to the commission of an act which, if committed by an adult, would constitute a crime under the laws of this state.</p> <p>(2) “Damages” means all special damages which a victim could recover against an offender in a civil action, including a wrongful death action, based on the same act or acts for which the offender is sentenced, except</p> |

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| | <p>punitive damages and damages for pain and suffering, mental anguish, or loss of consortium. Such special damages shall not be limited by any law which may cap economic damages. Special damages may include the reasonably determined costs of transportation to and from court proceedings related to the prosecution of the crime.</p> <p>(3) “Offender” means any natural person, firm, partnership, association, public or private corporation, or other legal entity that has been sentenced for any crime or any juvenile who has been adjudged delinquent.</p> <p>(4) “Ordering authority” means:</p> <p>(A) A court of competent jurisdiction;</p> <p>(B) The State Board of Pardons and Paroles;</p> <p>(C) The Department of Corrections;</p> <p>(D) The Department of Juvenile Justice;</p> <p>(E) The Department of Community Supervision; or</p> <p>(F) Any combination thereof, as is required by the context.</p> <p>(5) “Parent” means a person who is the legal mother as defined in Code Section 15-11-2, the legal father as defined in Code Section 15-11-2, or the legal guardian. Such term shall not include a foster parent.</p> <p>(6) “Relief” means any parole or other conditional release from incarceration; the awarding of earned time allowances; reduction in security status; or placement in prison rehabilitation programs, including, but not limited to, those in which the offender receives monetary compensation.</p> <p>(7) “Restitution” means any property, lump sum, or periodic payment ordered to be made by any offender or other person to any victim by any ordering authority. Where the victim is a public corporation or governmental entity or where the offender is a juvenile, restitution may also be in the form of services ordered to be performed by the offender.</p> <p>(8) “Restitution order” means any order, decree, or judgment of an ordering authority which requires an offender to make restitution.</p> <p>(9) “Victim” means any:</p> <p>(A) Natural person or his or her personal representative or, if the victim is deceased, his or her estate; or</p> <p>(B) Any firm, partnership, association, public or private corporation, or governmental entity suffering damages caused by an offender’s unlawful act; provided, however, that the term “victim” shall not include any person who is concerned in the commission of such unlawful act as defined in Code Section 16-2-20.</p> <p><i>Ga. Code Ann. § 17-14-3 (Court-ordered restitution).</i></p> |

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| | <p>(a) Subject to the provisions of Code Section 17-14-10, notwithstanding the provisions contained in Chapter 11 of Title 15, and in addition to any other penalty imposed by law, a judge of any court of competent jurisdiction shall, in sentencing an offender, make a finding as to the amount of restitution due any victim, and order an offender to make full restitution to such victim.</p> <p>(b) If the offender is placed on probation, including probation imposed pursuant to Chapter 11 of Title 15 or Article 3 of Chapter 8 of Title 42, or sentence is suspended, deferred, or withheld, restitution ordered under this Code section shall be a condition of that probation, sentence, or order.</p> <p>(c) If the offender is granted relief by the Department of Juvenile Justice, Department of Corrections, or the State Board of Pardons and Paroles, the terms of any court order requiring the offender to make restitution to a victim shall be a condition of such relief in addition to any other terms or conditions which may apply to such relief.</p> <p><i>Ga. Code Ann. § 17-17-1 (Legislative findings; basic rights).</i> The General Assembly hereby finds and declares it to be the policy of this state that victims of crimes should be accorded certain basic rights just as the accused are accorded certain basic rights. These rights include:</p> <ol style="list-style-type: none"> (1) The right to reasonable, accurate, and timely notice of any scheduled court proceedings or any changes to such proceedings; (2) The right to reasonable, accurate, and timely notice of the arrest, release, or escape of the accused; (3) The right not to be excluded from any scheduled court proceedings, except as provided in this chapter or as otherwise required by law; (4) The right to be heard at any scheduled court proceedings involving the release, plea, or sentencing of the accused; (5) The right to file a written objection in any parole proceedings involving the accused; (6) The right to confer with the prosecuting attorney in any criminal prosecution related to the victim; (7) The right to restitution as provided by law; (8) The right to proceedings free from unreasonable delay; and (9) The right to be treated fairly and with dignity by all criminal justice agencies involved in the case. |
| Hawaii | <p><i>Haw. Rev. Stat. Ann. § 706-646 (Victim restitution).</i></p> <ol style="list-style-type: none"> (1) As used in this section, “victim” includes any of the following: <ol style="list-style-type: none"> (a) The direct victim of a crime including a business entity, trust, or governmental entity; |

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| | <p>(b) If the victim dies as a result of the crime, a surviving relative of the victim as defined in chapter 351;</p> <p>(c) A governmental entity that has reimbursed the victim for losses arising as a result of the crime or paid for medical care provided to the victim as a result of the crime; or</p> <p>(d) Any duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals, contracted with the county or State to enforce animal-related statutes or ordinances, that impounds, holds, or receives custody of a pet animal pursuant to section 711-1109.1, 711-1109.2, or 711-1110.5; provided that this section does not apply to costs that have already been contracted and provided for by the counties or State.</p> <p>(2) The court shall order the defendant to make restitution for reasonable and verified losses suffered by the victim or victims as a result of the defendant’s offense when requested by the victim. The court shall order restitution to be paid to the crime victim compensation commission if the victim has been given an award for compensation under chapter 351. If the court orders payment of a fine in addition to restitution or a compensation fee, or both, the payment of restitution and compensation fee shall be made pursuant to section 706-651.</p> <p>(3) In ordering restitution, the court shall not consider the defendant’s financial ability to make restitution in determining the amount of restitution to order. The court, however, shall consider the defendant’s financial ability to make restitution for the purpose of establishing the time and manner of payment. The court shall specify the time and manner in which restitution is to be paid. While the defendant is in the custody of the department of public safety, restitution shall be collected pursuant to chapter 353 and any court-ordered payment schedule shall be suspended. Restitution shall be a dollar amount that is sufficient to reimburse any victim fully for losses, including but not limited to:</p> <p>(a) Full value of stolen or damaged property, as determined by replacement costs of like property, or the actual or estimated cost of repair, if repair is possible;</p> <p>(b) Medical expenses; and</p> <p>(c) Funeral and burial expenses incurred as a result of the crime.</p> <p>(4) In any criminal proceeding before any court, all money deposited by the defendant as bail and not declared forfeited shall be applied toward payment of any restitution, fines, or fees ordered by the court in the same case, consistent with the priorities in subsection (2).</p> <p>(5) The restitution ordered shall not affect the right of a victim to recover under section 351-33 or in any manner provided by law; provided that any amount of restitution actually recovered by the victim under this section shall be deducted from any award under section 351-33.</p> <p><i>Haw. Rev. Stat. Ann. § 707-785 (Restitution for victims of labor trafficking).</i></p> |

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| | <p>(1) In addition to any other penalty, and notwithstanding a victim's failure to request restitution under section 706-646(2), the court shall order restitution to be paid to the victim, consisting of an amount that is the greater of:</p> <p>(a) The total gross income or value to the defendant of the victim's labor or services; or</p> <p>(b) The value of the victim's labor or services, as guaranteed under the minimum wage provisions of chapter 387 or the Fair Labor Standards Act of 1938, Public Law 75-718, title 29 United States Code sections 201 through 219, inclusive, whichever is greater.</p> <p>(2) The return of the victim to the victim's home country or other absence of the victim from the jurisdiction shall not relieve the defendant of the defendant's restitution obligation.</p> |
| <p>Idaho</p> | <p><i>Idaho Const. art I, § 22 (Rights of crime victims).</i></p> <p>A crime victim, as defined by statute, has the following rights:</p> <p>(1) To be treated with fairness, respect, dignity and privacy throughout the criminal justice process.</p> <p>(2) To timely disposition of the case.</p> <p>(3) To prior notification of trial court, appellate and parole proceedings and, upon request, to information about the sentence, incarceration and release of the defendant.</p> <p>(4) To be present at all criminal justice proceedings.</p> <p>(5) To communicate with the prosecution.</p> <p>(6) To be heard, upon request, at all criminal justice proceedings considering a plea of guilty, sentencing, incarceration or release of the defendant, unless manifest injustice would result.</p> <p>(7) To restitution, as provided by law, from the person committing the offense that caused the victim's loss.</p> <p>(8) To refuse an interview, ex parte contact, or other request by the defendant, or any other person acting on behalf of the defendant, unless such request is authorized by law.</p> <p>(9) To read presentence reports relating to the crime.</p> <p>(10) To the same rights in juvenile proceedings, where the offense is a felony if committed by an adult, as guaranteed in this section, provided that access to the social history report shall be determined by statute.</p> <p>Nothing in this section shall be construed to authorize a court to dismiss a case, to set aside or void a finding of guilt or an acceptance of a plea of guilty, or to obtain appellate, habeas corpus, or other relief from any criminal judgment, for a violation of the provisions of this section; nor be construed as creating a cause of action for money damages, costs or attorney fees against the state, a county, a municipality, any agency, instrumentality or person; nor be construed as limiting any rights for victims previously conferred by statute. This section shall</p> |

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| | <p>be self-enacting. The legislature shall have the power to enact laws to define, implement, preserve, and expand the rights guaranteed to victims in the provisions of this section.</p> <p><i>Idaho Code § 19-5304 (Restitution for crime victims – Orders to be separate – When restitution is not appropriate – Other remedies – Evidentiary hearings – Definitions).</i></p> <p>(1) As used in this chapter:</p> <p>(a) “Economic loss” includes, but is not limited to, the value of property taken, destroyed, broken, or otherwise harmed, lost wages, and direct out-of-pocket losses or expenses, such as medical expenses resulting from the criminal conduct, but does not include less tangible damage such as pain and suffering, wrongful death or emotional distress.</p> <p>(b) “Found guilty of any crime” shall mean a finding by a court that a defendant has committed a criminal act and shall include an entry of a plea of guilty, an order withholding judgment, suspending sentence, or entry of judgment of conviction for a misdemeanor or felony.</p> <p>(c) “Value” shall be as defined in section 18-2402(11), Idaho Code.</p> <p>(d) “Property” shall be as defined in section 18-2402(8), Idaho Code.</p> <p>(e) “Victim” shall mean:</p> <p>(i) The directly injured victim which means a person or entity, who suffers economic loss or injury as the result of the defendant’s criminal conduct and shall also include the immediate family of a minor and the immediate family of the actual victim in homicide cases;</p> <p>(ii) Any health care provider who has provided medical treatment to a directly injured victim if such treatment is for an injury resulting from the defendant’s criminal conduct, and who has not been otherwise compensated for such treatment by the directly injured victim or the immediate family of the directly injured victim;</p> <p>(iii) The account established pursuant to the crime victims compensation act, chapter 10, title 72, Idaho Code, from which payment was made to or on behalf of a directly injured victim pursuant to the requirements of Idaho law as a result of the defendant’s criminal conduct;</p> <p>(iv) A person or entity who suffers economic loss because such person or entity has made payments to or on behalf of a directly injured victim pursuant to a contract including, but not limited to, an insurance contract, or payments to or on behalf of a directly injured victim to pay or settle a claim or claims against such person or entity in tort or pursuant to statute and arising from the crime.</p> <p>(2) Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order a defendant found guilty of any crime which results in an economic loss to the victim to make restitution to the victim. An order of restitution shall be a separate written order in addition to any other sentence the court may</p> |

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| | <p>impose, including incarceration, and may be complete, partial, or nominal. The court may also include restitution as a term and condition of judgment of conviction; however, if a court orders restitution in the judgment of conviction and in a separate written order, a defendant shall not be required to make restitution in an amount beyond that authorized by this chapter. Restitution shall be ordered for any economic loss which the victim actually suffers. The existence of a policy of insurance covering the victim's loss shall not absolve the defendant of the obligation to pay restitution.</p> <p>(3) If the court determines that restitution is inappropriate or undesirable or if only partial or nominal restitution is ordered, it shall enter an order articulating the reasons therefor on the record.</p> <p>(4) If a separate written order of restitution is issued, an order of restitution shall be for an amount certain and shall be due and owing at the time of sentencing or at the date the amount of restitution is determined, whichever is later. An order of restitution may provide for interest from the date of the economic loss or injury.</p> <p>(5) The court may order the defendant to pay restitution to the victim in any case, regardless of whether the defendant is incarcerated or placed on probation. The court may order the defendant to pay all or a part of the restitution ordered to the court to be distributed by the court to the victims in a manner the court deems just.</p> <p>(6) Restitution orders shall be entered by the court at the time of sentencing or such later date as deemed necessary by the court. Economic loss shall be based upon the preponderance of evidence submitted to the court by the prosecutor, defendant, victim or presentence investigator. Each party shall have the right to present such evidence as may be relevant to the issue of restitution, and the court may consider such hearsay as may be contained in the presentence report, victim impact statement or otherwise provided to the court.</p> <p>(7) The court, in determining whether to order restitution and the amount of such restitution, shall consider the amount of economic loss sustained by the victim as a result of the offense, the financial resources, needs and earning ability of the defendant, and such other factors as the court deems appropriate. The immediate inability to pay restitution by a defendant shall not be, in and of itself, a reason to not order restitution.</p> <p>(8) In determining restitution, where it appears that more than one (1) person is responsible for a crime that results in economic loss to a victim, and one (1) or more of the suspects or defendants are not found, apprehended, charged, convicted or ordered to pay restitution, the court may require the remaining defendant or defendants, who are convicted of or plead guilty to the crime, to be jointly and severally responsible for the entire economic loss to the victim.</p> <p>(9) The court may, with the consent of the parties, order restitution to victims, and/or any other person or entity, for economic loss or injury for crimes which are not adjudicated or are not before the court.</p> |

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| | <p>(10) A defendant, against whom a restitution order has been entered, may, within forty-two (42) days of the entry of the order of restitution, request relief from the restitution order in accordance with the Idaho rules of civil procedure relating to relief from final orders.</p> <p>(11) An order of restitution shall not preclude the victim from seeking any other legal remedy.</p> <p>(12) Every presentence report shall include a full statement of economic loss suffered by the victim or victims of the defendant's crime or crimes.</p> <p>(13) If there is more than one (1) victim, the restitution order shall provide that the directly injured victim(s) be fully compensated for so much of the loss caused by the defendant's criminal conduct which has not been paid by a third party, including persons referred to in subsection (1)(e)(ii), (iii) and (iv) of this section.</p> <p>(14) When a person is found guilty of violating section 18-8007, Idaho Code, the court, in addition to any other sentence imposed, may order the person to pay to any victim an amount of money equal to the amount of that victim's economic loss caused by the person as a result of the incident that created the duties as provided in section 18-8007, Idaho Code.</p> |
| <p>Illinois</p> | <p><i>Ill. Const. art 1, § 8.1 (Crime Victims' Rights).</i></p> <p>(a) Crime victims, as defined by law, shall have the following rights:</p> <p>(1) The right to be treated with fairness and respect for their dignity and privacy and to be free from harassment, intimidation, and abuse throughout the criminal justice process.</p> <p>(2) The right to notice and to a hearing before a court ruling on a request for access to any of the victim's records, information, or communications which are privileged or confidential by law.</p> <p>(3) The right to timely notification of all court proceedings.</p> <p>(4) The right to communicate with the prosecution.</p> <p>(5) The right to be heard at any post-arraignment court proceeding in which a right of the victim is at issue and any court proceeding involving a post-arraignment release decision, plea, or sentencing.</p> <p>(6) The right to be notified of the conviction, the sentence, the imprisonment, and the release of the accused.</p> <p>(7) The right to timely disposition of the case following the arrest of the accused.</p> <p>(8) The right to be reasonably protected from the accused throughout the criminal justice process.</p> <p>(9) The right to have the safety of the victim and the victim's family considered in denying or fixing the amount of bail, determining whether to release the defendant, and setting conditions of release after arrest and conviction.</p> |

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| | <p>(10) The right to be present at the trial and all other court proceedings on the same basis as the accused, unless the victim is to testify and the court determines that the victim’s testimony would be materially affected if the victim hears other testimony at the trial.</p> <p>(11) The right to have present at all court proceedings, subject to the rules of evidence, an advocate and other support person of the victim’s choice.</p> <p>(12) The right to restitution.</p> <p>(b) The victim has standing to assert the rights enumerated in subsection (a) in any court exercising jurisdiction over the case. The court shall promptly rule on a victim’s request. The victim does not have party status. The accused does not have standing to assert the rights of a victim. The court shall not appoint an attorney for the victim under this Section. Nothing in this Section shall be construed to alter the powers, duties, and responsibilities of the prosecuting attorney.</p> <p>(c) The General Assembly may provide for an assessment against convicted defendants to pay for crime victims’ rights.</p> <p>(d) Nothing in this Section or any law enacted under this Section creates a cause of action in equity or at law for compensation, attorney’s fees, or damages against the State, a political subdivision of the State, an officer, employee, or agent of the State or of any political subdivision of the State, or an officer or employee of the court.</p> <p>(e) Nothing in this Section or any law enacted under this Section shall be construed as creating (1) a basis for vacating a conviction or (2) a ground for any relief requested by the defendant.</p> <p><i>725 Ill. Comp. Stat. 120/4.5 (Procedures to implement the rights of crime victims).</i></p> <p>§ 4.5. Procedures to implement the rights of crime victims. To afford crime victims their rights, law enforcement, prosecutors, judges and corrections will provide information, as appropriate of the following procedures:</p> <p>...</p> <p>(b) The office of the State’s Attorney:</p> <p>...</p> <p>(11) shall request restitution at sentencing and as part of a plea agreement if the victim requests restitution;</p> <p>...</p> <p>(c) The court shall ensure that the rights of the victim are afforded.</p> <p>(c-5) The following procedures shall be followed to afford victims the rights guaranteed by Article I, Section 8.1 of the Illinois Constitution:</p> |

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| | <p>(1) Written notice. A victim may complete a written notice of intent to assert rights on a form prepared by the Office of the Attorney General and provided to the victim by the State’s Attorney. The victim may at any time provide a revised written notice to the State’s Attorney. The State’s Attorney shall file the written notice with the court. At the beginning of any court proceeding in which the right of a victim may be at issue, the court and prosecutor shall review the written notice to determine whether the victim has asserted the right that may be at issue.</p> <p>(2) Victim’s retained attorney. A victim’s attorney shall file an entry of appearance limited to assertion of the victim’s rights. Upon the filing of the entry of appearance and service on the State’s Attorney and the defendant, the attorney is to receive copies of all notices, motions and court orders filed thereafter in the case.</p> <p>(3) Standing. The victim has standing to assert the rights enumerated in subsection (a) of Article I, Section 8.1 of the Illinois Constitution and the statutory rights under Section 4 of this Act in any court exercising jurisdiction over the criminal case. The prosecuting attorney, a victim, or the victim’s retained attorney may assert the victim’s rights. The defendant in the criminal case has no standing to assert a right of the victim in any court proceeding, including on appeal.</p> <p>(4) Assertion of and enforcement of rights.</p> <p>(A) The prosecuting attorney shall assert a victim’s right or request enforcement of a right by filing a motion or by orally asserting the right or requesting enforcement in open court in the criminal case outside the presence of the jury. The prosecuting attorney shall consult with the victim and the victim’s attorney regarding the assertion or enforcement of a right. If the prosecuting attorney decides not to assert or enforce a victim’s right, the prosecuting attorney shall notify the victim or the victim’s attorney in sufficient time to allow the victim or the victim’s attorney to assert the right or to seek enforcement of a right.</p> <p>(B) If the prosecuting attorney elects not to assert a victim’s right or to seek enforcement of a right, the victim or the victim’s attorney may assert the victim’s right or request enforcement of a right by filing a motion or by orally asserting the right or requesting enforcement in open court in the criminal case outside the presence of the jury.</p> <p>(C) If the prosecuting attorney asserts a victim’s right or seeks enforcement of a right, and the court denies the assertion of the right or denies the request for enforcement of a right, the victim or victim’s attorney may file a motion to assert the victim’s right or to request enforcement of the right within 10 days of the court’s ruling. The motion need not demonstrate the grounds for a motion for reconsideration. The court shall rule on the merits of the motion.</p> |

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| | <p>(D) The court shall take up and decide any motion or request asserting or seeking enforcement of a victim’s right without delay, unless a specific time period is specified by law or court rule. The reasons for any decision denying the motion or request shall be clearly stated on the record.</p> <p>(5) Violation of rights and remedies.</p> <p>(A) If the court determines that a victim’s right has been violated, the court shall determine the appropriate remedy for the violation of the victim’s right by hearing from the victim and the parties, considering all factors relevant to the issue, and then awarding appropriate relief to the victim.</p> <p>(A-5) Consideration of an issue of a substantive nature or an issue that implicates the constitutional or statutory right of a victim at a court proceeding labeled as a status hearing shall constitute a per se violation of a victim’s right.</p> <p>...</p> <p>(12) Right to Restitution.</p> <p>(A) If the victim has asserted the right to restitution and the amount of restitution is known at the time of sentencing, the court shall enter the judgment of restitution at the time of sentencing.</p> <p>(B) If the victim has asserted the right to restitution and the amount of restitution is not known at the time of sentencing, the prosecutor shall, within 5 days after sentencing, notify the victim what information and documentation related to restitution is needed and that the information and documentation must be provided to the prosecutor within 45 days after sentencing. Failure to timely provide information and documentation related to restitution shall be deemed a waiver of the right to restitution. The prosecutor shall file and serve within 60 days after sentencing a proposed judgment for restitution and a notice that includes information concerning the identity of any victims or other persons seeking restitution, whether any victim or other person expressly declines restitution, the nature and amount of any damages together with any supporting documentation, a restitution amount recommendation, and the names of any co-defendants and their case numbers. Within 30 days after receipt of the proposed judgment for restitution, the defendant shall file any objection to the proposed judgment, a statement of grounds for the objection, and a financial statement. If the defendant does not file an objection, the court may enter the judgment for restitution without further proceedings. If the defendant files an objection and either party requests a hearing, the court shall schedule a hearing.</p> <p>....</p> <p><i>730 Ill. Comp. Stat. 5/5-5-6 (Restitution).</i></p> <p>§ 5-5-6. In all convictions for offenses in violation of the Criminal Code of 1961 or the Criminal Code of 20121 or of Section 11-501 of the Illinois Vehicle Code in which the person received any injury to his or her</p> |

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| | <p>person or damage to his or her real or personal property as a result of the criminal act of the defendant, the court shall order restitution as provided in this Section. In all other cases, except cases in which restitution is required under this Section, the court must at the sentence hearing determine whether restitution is an appropriate sentence to be imposed on each defendant convicted of an offense. If the court determines that an order directing the offender to make restitution is appropriate, the offender may be sentenced to make restitution. The court may consider restitution an appropriate sentence to be imposed on each defendant convicted of an offense in addition to a sentence of imprisonment. The sentence of the defendant to a term of imprisonment is not a mitigating factor that prevents the court from ordering the defendant to pay restitution. If the offender is sentenced to make restitution the Court shall determine the restitution as hereinafter set forth:</p> <p>(a) At the sentence hearing, the court shall determine whether the property may be restored in kind to the possession of the owner or the person entitled to possession thereof; or whether the defendant is possessed of sufficient skill to repair and restore property damaged; or whether the defendant should be required to make restitution in cash, for out-of-pocket expenses, damages, losses, or injuries found to have been proximately caused by the conduct of the defendant or another for whom the defendant is legally accountable under the provisions of Article 5 of the Criminal Code of 1961 or the Criminal Code of 2012.2</p> <p>(b) In fixing the amount of restitution to be paid in cash, the court shall allow credit for property returned in kind, for property damages ordered to be repaired by the defendant, and for property ordered to be restored by the defendant; and after granting the credit, the court shall assess the actual out-of-pocket expenses, losses, damages, and injuries suffered by the victim named in the charge and any other victims who may also have suffered out-of-pocket expenses, losses, damages, and injuries proximately caused by the same criminal conduct of the defendant, and insurance carriers who have indemnified the named victim or other victims for the out-of-pocket expenses, losses, damages, or injuries, provided that in no event shall restitution be ordered to be paid on account of pain and suffering. When a victim's out-of-pocket expenses have been paid pursuant to the Crime Victims Compensation Act, the court shall order restitution be paid to the compensation program. If a defendant is placed on supervision for, or convicted of, domestic battery, the defendant shall be required to pay restitution to any domestic violence shelter in which the victim and any other family or household members lived because of the domestic battery. The amount of the restitution shall equal the actual expenses of the domestic violence shelter in providing housing and any other services for the victim and any other family or household members living at the shelter. If a defendant fails to pay restitution in the manner or within the time period specified by the court, the court may enter an order directing the sheriff to seize any real or personal property of a defendant to the extent necessary to satisfy the order of restitution and dispose of the property by public sale. All proceeds from such sale in excess of the amount of restitution plus court costs and the costs of</p> |

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| | <p>the sheriff in conducting the sale shall be paid to the defendant. The defendant convicted of domestic battery, if a person under 18 years of age was present and witnessed the domestic battery of the victim, is liable to pay restitution for the cost of any counseling required for the child at the discretion of the court.</p> <p>(c) In cases where more than one defendant is accountable for the same criminal conduct that results in out-of-pocket expenses, losses, damages, or injuries, each defendant shall be ordered to pay restitution in the amount of the total actual out-of-pocket expenses, losses, damages, or injuries to the victim proximately caused by the conduct of all of the defendants who are legally accountable for the offense.</p> <p>(1) In no event shall the victim be entitled to recover restitution in excess of the actual out-of-pocket expenses, losses, damages, or injuries, proximately caused by the conduct of all of the defendants.</p> <p>(2) As between the defendants, the court may apportion the restitution that is payable in proportion to each co-defendant's culpability in the commission of the offense.</p> <p>(3) In the absence of a specific order apportioning the restitution, each defendant shall bear his pro rata share of the restitution.</p> <p>(4) As between the defendants, each defendant shall be entitled to a pro rata reduction in the total restitution required to be paid to the victim for amounts of restitution actually paid by co-defendants, and defendants who shall have paid more than their pro rata share shall be entitled to refunds to be computed by the court as additional amounts are paid by co-defendants.</p> <p>(d) In instances where a defendant has more than one criminal charge pending against him in a single case, or more than one case, and the defendant stands convicted of one or more charges, a plea agreement negotiated by the State's Attorney and the defendants may require the defendant to make restitution to victims of charges that have been dismissed or which it is contemplated will be dismissed under the terms of the plea agreement, and under the agreement, the court may impose a sentence of restitution on the charge or charges of which the defendant has been convicted that would require the defendant to make restitution to victims of other offenses as provided in the plea agreement.</p> <p>(e) The court may require the defendant to apply the balance of the cash bond, after payment of court costs, and any fine that may be imposed to the payment of restitution.</p> <p>(f) Taking into consideration the ability of the defendant to pay, including any real or personal property or any other assets of the defendant, the court shall determine whether restitution shall be paid in a single payment or in installments, and shall fix a period of time not in excess of 5 years, except for violations of Sections 16-1.3 and 17-56 of the Criminal Code of 1961 or the Criminal Code of 2012, or the period of time specified in subsection (f-1), not including periods of incarceration, within which payment of restitution is to be paid in full. Complete restitution shall be paid in as short a time period as possible. However, if the court deems it</p> |

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| | <p>necessary and in the best interest of the victim, the court may extend beyond 5 years the period of time within which the payment of restitution is to be paid. If the defendant is ordered to pay restitution and the court orders that restitution is to be paid over a period greater than 6 months, the court shall order that the defendant make monthly payments; the court may waive this requirement of monthly payments only if there is a specific finding of good cause for waiver.</p> <p>(f-1)(1) In addition to any other penalty prescribed by law and any restitution ordered under this Section that did not include long-term physical health care costs, the court may, upon conviction of any misdemeanor or felony, order a defendant to pay restitution to a victim in accordance with the provisions of this subsection (f-1) if the victim has suffered physical injury as a result of the offense that is reasonably probable to require or has required long-term physical health care for more than 3 months. As used in this subsection (f-1) “long-term physical health care” includes mental health care.</p> <p>(2) The victim’s estimate of long-term physical health care costs may be made as part of a victim impact statement under Section 6 of the Rights of Crime Victims and Witnesses Act or made separately. The court shall enter the long-term physical health care restitution order at the time of sentencing. An order of restitution made under this subsection (f-1) shall fix a monthly amount to be paid by the defendant for as long as long-term physical health care of the victim is required as a result of the offense. The order may exceed the length of any sentence imposed upon the defendant for the criminal activity. The court shall include as a special finding in the judgment of conviction its determination of the monthly cost of long-term physical health care.</p> <p>(3) After a sentencing order has been entered, the court may from time to time, on the petition of either the defendant or the victim, or upon its own motion, enter an order for restitution for long-term physical care or modify the existing order for restitution for long-term physical care as to the amount of monthly payments. Any modification of the order shall be based only upon a substantial change of circumstances relating to the cost of long-term physical health care or the financial condition of either the defendant or the victim. The petition shall be filed as part of the original criminal docket.</p> <p>(g) In addition to the sentences provided for in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15, and 12-16, and subdivision (a)(4) of Section 11-14.4, of the Criminal Code of 1961 or the Criminal Code of 2012,³ the court may order any person who is convicted of violating any of those Sections or who was charged with any of those offenses and which charge was reduced to another charge as a result of a plea agreement under subsection (d) of this Section to meet all or any portion of the financial obligations of treatment, including but not limited to medical, psychiatric, or rehabilitative treatment or psychological counseling, prescribed for the victim or victims of the offense.</p> |

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| | <p>The payments shall be made by the defendant to the clerk of the circuit court and transmitted by the clerk to the appropriate person or agency as directed by the court. Except as otherwise provided in subsection (f-1), the order may require such payments to be made for a period not to exceed 5 years after sentencing, not including periods of incarceration.</p> <p>(h) The judge may enter an order of withholding to collect the amount of restitution owed in accordance with Part 8 of Article XII of the Code of Civil Procedure.⁴</p> <p>(i) A sentence of restitution may be modified or revoked by the court if the offender commits another offense, or the offender fails to make restitution as ordered by the court, but no sentence to make restitution shall be revoked unless the court shall find that the offender has had the financial ability to make restitution, and he has wilfully refused to do so. When the offender’s ability to pay restitution was established at the time an order of restitution was entered or modified, or when the offender’s ability to pay was based on the offender’s willingness to make restitution as part of a plea agreement made at the time the order of restitution was entered or modified, there is a rebuttable presumption that the facts and circumstances considered by the court at the hearing at which the order of restitution was entered or modified regarding the offender’s ability or willingness to pay restitution have not materially changed. If the court shall find that the defendant has failed to make restitution and that the failure is not wilful, the court may impose an additional period of time within which to make restitution. The length of the additional period shall not be more than 2 years. The court shall retain all of the incidents of the original sentence, including the authority to modify or enlarge the conditions, and to revoke or further modify the sentence if the conditions of payment are violated during the additional period.</p> <p>(j) The procedure upon the filing of a Petition to Revoke a sentence to make restitution shall be the same as the procedures set forth in Section 5-6-4 of this Code governing violation, modification, or revocation of Probation, of Conditional Discharge, or of Supervision.</p> <p>(k) Nothing contained in this Section shall preclude the right of any party to proceed in a civil action to recover for any damages incurred due to the criminal misconduct of the defendant.</p> <p>(l) Restitution ordered under this Section shall not be subject to disbursement by the circuit clerk under Section 27.5 of the Clerks of Courts Act.⁵</p> <p>(m) A restitution order under this Section is a judgment lien in favor of the victim that:</p> <ol style="list-style-type: none"> (1) Attaches to the property of the person subject to the order; (2) May be perfected in the same manner as provided in Part 3 of Article 9 of the Uniform Commercial Code;⁶ (3) May be enforced to satisfy any payment that is delinquent under the restitution order by the person in whose favor the order is issued or the person’s assignee; and (4) Expires in the same manner as a judgment lien created in a civil proceeding. |

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| | <p>When a restitution order is issued under this Section, the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the charge was filed. Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket.</p> <p>(n) An order of restitution under this Section does not bar a civil action for:</p> <p>(1) Damages that the court did not require the person to pay to the victim under the restitution order but arise from an injury or property damages that is the basis of restitution ordered by the court; and</p> <p>(2) Other damages suffered by the victim.</p> <p>The restitution order is not discharged by the completion of the sentence imposed for the offense.</p> <p>A restitution order under this Section is not discharged by the liquidation of a person’s estate by a receiver. A restitution order under this Section may be enforced in the same manner as judgment liens are enforced under Article XII of the Code of Civil Procedure.⁷</p> <p>The provisions of Section 2-1303 of the Code of Civil Procedure,⁸ providing for interest on judgments, apply to judgments for restitution entered under this Section.</p> |
| <p>Indiana</p> | <p><i>Ind. Code Ann. § 35-40-5-7 (Order of restitution).</i></p> <p>Sec. 7. A victim has the right to pursue an order of restitution and other civil remedies against the person convicted of a crime against the victim.</p> <p><i>Ind. Code Ann. § 35-45-9-6 (Restitution to victim).</i></p> <p>Sec. 6. In addition to any sentence or fine imposed on a criminal organization member for committing a felony or misdemeanor, the court shall order a criminal organization member convicted of a felony or misdemeanor to make restitution to the victim of the crime under IC 35-50-5-3.</p> <p><i>Ind. Code Ann. § 35-50-5-3 (Restitution order).</i></p> <p>Sec. 3. (a) Except as provided in subsection (i), (j), (l), or (m), in addition to any sentence imposed under this article for a felony or misdemeanor, the court may, as a condition of probation or without placing the person on probation, order the person to make restitution to the victim of the crime, the victim’s estate, or the family of a victim who is deceased. The court shall base its restitution order upon a consideration of:</p> <p>(1) property damages of the victim incurred as a result of the crime, based on the actual cost of repair (or replacement if repair is inappropriate);</p> <p>(2) medical and hospital costs incurred by the victim (before the date of sentencing) as a result of the crime;</p> |

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| | <p>(3) the cost of medical laboratory tests to determine if the crime has caused the victim to contract a disease or other medical condition;</p> <p>(4) earnings lost by the victim (before the date of sentencing) as a result of the crime including earnings lost while the victim was hospitalized or participating in the investigation or trial of the crime; and</p> <p>(5) funeral, burial, or cremation costs incurred by the family or estate of a homicide victim as a result of the crime.</p> <p>(b) A restitution order under subsection (a), (i), (j), (l), or (m) is a judgment lien that:</p> <p>(1) attaches to the property of the person subject to the order;</p> <p>(2) may be perfected;</p> <p>(3) may be enforced to satisfy any payment that is delinquent under the restitution order by the person in whose favor the order is issued or the person's assignee; and</p> <p>(4) expires;</p> <p>in the same manner as a judgment lien created in a civil proceeding.</p> <p>(c) When a restitution order is issued under subsection (a), the issuing court may order the person to pay the restitution, or part of the restitution, directly to:</p> <p>(1) the victim services division of the Indiana criminal justice institute in an amount not exceeding:</p> <p>(A) the amount of the award, if any, paid to the victim under IC 5-2-6.1; and</p> <p>(B) the cost of the reimbursements, if any, for emergency services provided to the victim under IC 16-10-1.5 (before its repeal) or IC 16-21-8; or</p> <p>(2) a probation department that shall forward restitution or part of restitution to:</p> <p>(A) a victim of a crime;</p> <p>(B) a victim's estate; or</p> <p>(C) the family of a victim who is deceased.</p> <p>The victim services division of the Indiana criminal justice institute shall deposit the restitution it receives under this subsection in the violent crime victims compensation fund established by IC 5-2-6.1-40.</p> <p>(d) When a restitution order is issued under subsection (a), (i), (j), (l), or (m), the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the felony or misdemeanor charge was filed. The restitution order must include the following information:</p> <p>(1) The name and address of the person that is to receive the restitution.</p> <p>(2) The amount of restitution the person is to receive.</p> |

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| | <p>Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket in the manner prescribed by IC 33-32-3-2. The clerk shall also notify the department of insurance of an order of restitution under subsection (i).</p> <p>(e) An order of restitution under subsection (a), (i), (j), (l), or (m) does not bar a civil action for:</p> <p>(1) damages that the court did not require the person to pay to the victim under the restitution order but arise from an injury or property damage that is the basis of restitution ordered by the court; and</p> <p>(2) other damages suffered by the victim.</p> <p>(f) Regardless of whether restitution is required under subsection (a) as a condition of probation or other sentence, the restitution order is not discharged by the completion of any probationary period or other sentence imposed for a felony or misdemeanor.</p> <p>(g) A restitution order under subsection (a), (i), (j), (l), or (m) is not discharged by the liquidation of a person's estate by a receiver under IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, IC 34-48-6, IC 34-1-12, or IC 34-2-7 before their repeal).</p> <p>(h) The attorney general may pursue restitution ordered by the court under subsections (a) and (c) on behalf of the victim services division of the Indiana criminal justice institute established under IC 5-2-6-8.</p> <p>(i) The court may order the person convicted of an offense under IC 35-43-9 to make restitution to the victim of the crime. The court shall base its restitution order upon a consideration of the amount of money that the convicted person converted, misappropriated, or received, or for which the convicted person conspired. The restitution order issued for a violation of IC 35-43-9 must comply with subsections (b), (d), (e), and (g), and is not discharged by the completion of any probationary period or other sentence imposed for a violation of IC 35-43-9.</p> <p>(j) The court may order the person convicted of an offense under IC 35-43-5-3.5 to make restitution to the victim of the crime, the victim's estate, or the family of a victim who is deceased. The court shall base its restitution order upon a consideration of the amount of fraud or harm caused by the convicted person and any reasonable expenses (including lost wages) incurred by the victim in correcting the victim's credit report and addressing any other issues caused by the commission of the offense under IC 35-43-5-3.5. If, after a person is sentenced for an offense under IC 35-43-5-3.5, a victim, a victim's estate, or the family of a victim discovers or incurs additional expenses that result from the convicted person's commission of the offense under IC 35-43-5-3.5, the court may issue one (1) or more restitution orders to require the convicted person to make restitution, even if the court issued a restitution order at the time of sentencing. For purposes of entering a restitution order after sentencing, a court has continuing jurisdiction over a person convicted of an offense under IC 35-43-5-3.5 for five (5) years after the date of sentencing. Each restitution order issued for a violation of IC 35-43-5-3.5</p> |

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| | <p>must comply with subsections (b), (d), (e), and (g), and is not discharged by the completion of any probationary period or other sentence imposed for an offense under IC 35-43-5-3.5.</p> <p>(k) The court shall order a person convicted of an offense under IC 35-42-3.5 to make restitution to the victim of the crime in an amount equal to the greater of the following:</p> <p>(1) The gross income or value to the person of the victim’s labor or services.</p> <p>(2) The value of the victim’s labor as guaranteed under the minimum wage and overtime provisions of:</p> <p>(A) the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201-209); or</p> <p>(B) IC 22-2-2 (Minimum Wage);</p> <p>whichever is greater.</p> <p>(l) The court shall order a person who:</p> <p>(1) is convicted of dealing in methamphetamine under IC 35-48-4-1.1 or manufacturing methamphetamine under IC 35-48-4-1.2; and</p> <p>(2) manufactured the methamphetamine on property owned by another person, without the consent of the property owner;</p> <p>to pay liquidated damages to the property owner in the amount of ten thousand dollars (\$10,000) or to pay actual damages to the property owner, including lost rent and the costs of decontamination by a qualified inspector certified under IC 16-19-3.1.</p> <p>(m) The court shall order a person who:</p> <p>(1) is convicted of dealing in marijuana under IC 35-48-4-10(a)(1)(A); and</p> <p>(2) manufactured the marijuana on property owned by another person, without the consent of the property owner;</p> <p>to pay liquidated damages to the property owner in the amount of two thousand dollars (\$2,000).</p> |
| Iowa | <p><i>Iowa Code Ann. § 910.1 (Definitions).</i></p> <p>As used in this chapter, unless the context otherwise requires:</p> <p>1. “Criminal activities” means any crime for which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered and any other crime committed after July 1, 1982, which is admitted or not contested by the offender, whether or not prosecuted. However, “criminal activities” does not include simple misdemeanors under chapter 321.</p> |

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| | <p>2. “Local anticrime organization” means an entity organized for the primary purpose of crime prevention which has been officially recognized by the chief of police of the city in which the organization is located or the sheriff of the county in which the organization is located.</p> <p>3. “Pecuniary damages” means all damages to the extent not paid by an insurer on an insurance claim by the victim, which a victim could recover against the offender in a civil action arising out of the same facts or event, except punitive damages and damages for pain, suffering, mental anguish, and loss of consortium. Without limitation, “pecuniary damages” includes damages for wrongful death and expenses incurred for psychiatric or psychological services or counseling or other counseling for the victim which became necessary as a direct result of the criminal activity.</p> <p>4. “Restitution” means payment of pecuniary damages to a victim in an amount and in the manner provided by the offender’s plan of restitution. “Restitution” also includes fines, penalties, and surcharges, the contribution of funds to a local anticrime organization which provided assistance to law enforcement in an offender’s case, the payment of crime victim compensation program reimbursements, payment of restitution to public agencies pursuant to section 321J.2, subsection 13, paragraph “b”, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney fees ordered pursuant to section 815.9, including the expense of a public defender, and the performance of a public service by an offender in an amount set by the court when the offender cannot reasonably pay all or part of the court costs including correctional fees approved pursuant to section 356.7, or court-appointed attorney fees ordered pursuant to section 815.9, including the expense of a public defender, and payment to the medical assistance program pursuant to chapter 249A for expenditures paid on behalf of the victim resulting from the offender’s criminal activities including investigative costs incurred by the Medicaid fraud control unit pursuant to section 249A.50.</p> <p>5. “Victim” means a person who has suffered pecuniary damages as a result of the offender’s criminal activities. However, for purposes of this chapter, an insurer paying a victim’s insurance claim is not a victim and does not have a right of subrogation. An insurer may be a victim for purposes of this chapter if insurance fraud in violation of section 507E.3 or 507E.3A has been perpetrated against the insurer. The crime victim compensation program is not an insurer for purposes of this chapter, and the right of subrogation provided by section 915.92 does not prohibit restitution to the crime victim compensation program.</p> <p><i>Iowa Code Ann. § 910.2 (Restitution or community service to be ordered by sentencing court).</i></p> <p>1. In all criminal cases in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, the sentencing court shall order that restitution be made by each offender to the victims of the offender’s criminal activities, to the clerk of court for fines, penalties, surcharges, and, to the</p> |

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| | <p>extent that the offender is reasonably able to pay, for crime victim assistance reimbursement, restitution to public agencies pursuant to section 321J.2, subsection 13, paragraph “b”, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney fees ordered pursuant to section 815.9, including the expense of a public defender, when applicable, contribution to a local anticrime organization, or restitution to the medical assistance program pursuant to chapter 249A. However, victims shall be paid in full before fines, penalties, and surcharges, crime victim compensation program reimbursement, public agencies, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney fees ordered pursuant to section 815.9, including the expenses of a public defender, contributions to a local anticrime organization, or the medical assistance program are paid. In structuring a plan of restitution, the court shall provide for payments in the following order of priority: victim, fines, penalties, and surcharges, crime victim compensation program reimbursement, public agencies, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney fees ordered pursuant to section 815.9, including the expense of a public defender, contribution to a local anticrime organization, and the medical assistance program.</p> <p>2. When the offender is not reasonably able to pay all or a part of the crime victim compensation program reimbursement, public agency restitution, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney fees ordered pursuant to section 815.9, including the expense of a public defender, contribution to a local anticrime organization, or medical assistance program restitution, the court may require the offender in lieu of that portion of the crime victim compensation program reimbursement, public agency restitution, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney fees ordered pursuant to section 815.9, including the expense of a public defender, contribution to a local anticrime organization, or medical assistance program restitution for which the offender is not reasonably able to pay, to perform a needed public service for a governmental agency or for a private nonprofit agency which provides a service to the youth, elderly, or poor of the community. When community service is ordered, the court shall set a specific number of hours of service to be performed by the offender which, for payment of court-appointed attorney fees ordered pursuant to section 815.9, including the expenses of a public defender, shall be approximately equivalent in value to those costs. The judicial district department of correctional services shall provide for the assignment of the offender to a public agency or private nonprofit agency to perform the required service.</p> <p><i>Iowa Code Ann. § 910.3 (Determination of amount of restitution).</i> The county attorney shall prepare a statement of pecuniary damages to victims of the defendant and, if applicable, any award by the crime victim compensation program and expenses incurred by public agencies</p> |

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| | <p>pursuant to section 321J.2, subsection 13, paragraph “b”, and shall provide the statement to the presentence investigator or submit the statement to the court at the time of sentencing. The clerk of court shall prepare a statement of court-appointed attorney fees ordered pursuant to section 815.9, including the expense of a public defender, and court costs including correctional fees claimed by a sheriff or municipality pursuant to section 356.7, which shall be provided to the presentence investigator or submitted to the court at the time of sentencing. If these statements are provided to the presentence investigator, they shall become a part of the presentence report. If pecuniary damage amounts are not available at the time of sentencing, the county attorney shall provide a statement of pecuniary damages incurred up to that time to the clerk of court. The statement shall be provided no later than thirty days after sentencing. If a defendant believes no person suffered pecuniary damages, the defendant shall so state. If the defendant has any mental or physical impairment which would limit or prohibit the performance of a public service, the defendant shall so state. The court may order a mental or physical examination, or both, of the defendant to determine a proper course of action. At the time of sentencing or at a later date to be determined by the court, the court shall set out the amount of restitution including the amount of public service to be performed as restitution and the persons to whom restitution must be paid. If the full amount of restitution cannot be determined at the time of sentencing, the court shall issue a temporary order determining a reasonable amount for restitution identified up to that time. At a later date as determined by the court, the court shall issue a permanent, supplemental order, setting the full amount of restitution. The court shall enter further supplemental orders, if necessary. These court orders shall be known as the plan of restitution.</p> <p><i>Iowa Code Ann. § 915.100 (Victim restitution rights).</i></p> <ol style="list-style-type: none"> 1. Victims, as defined in section 910.1, have the right to recover pecuniary damages, as defined in section 910.1. 2. The right to restitution includes the following: <ol style="list-style-type: none"> a. In all criminal cases in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, the sentencing court shall order that restitution be made by each offender to victims of the offender’s criminal activities. b. A judge may require a juvenile who has been found to have committed a delinquent act to compensate the victim of that act for losses due to the act. c. In cases where the act committed by an offender causes the death of another person, in addition to the amount ordered for payment of the victim’s pecuniary damages, the court shall also order the offender to pay at |

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| | <p>least one hundred fifty thousand dollars in restitution to the victim’s estate or heirs at law, pursuant to the provisions of section 910.3B.</p> <p>d. The clerk of court shall forward a copy of the plan of payment or the modified plan of payment to the victim or victims.</p> <p>e. Victims shall be paid in full pursuant to an order of restitution, before fines, penalties, surcharges, crime victim compensation program reimbursement, public agency reimbursement, court costs, correctional fees, court-appointed attorney fees, expenses of a public defender, or contributions to local anticrime organizations are paid.</p> <p>f. A judgment of restitution may be enforced by a victim entitled under the order to receive restitution, or by a deceased victim’s estate, in the same manner as a civil judgment.</p> <p>g. A victim in a criminal proceeding who is entitled to restitution under a court order may file a restitution lien.</p> <p>h. If a convicted felon or the representative of a convicted felon receives or is owed any profit which is realized as a result of the commission of the crime, and the attorney general brings an action to recover such profits, the victim may be entitled to funds held in escrow, pursuant to the provisions of section 910.15.</p> <p>i. The right to victim restitution for the pecuniary damages incurred by a victim as the result of a crime does not limit or impair the right of the victim to sue and recover damages from the offender in a civil action.</p> |
| <p>Kansas</p> | <p><i>Kan. Stat. Ann. § 21-6604 (Authorized dispositions; crimes committed on or after July 1, 1993).</i></p> <p>(a) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:</p> <p>(1) Commit the defendant to the custody of the secretary of corrections if the current crime of conviction is a felony and the sentence presumes imprisonment, or the sentence imposed is a dispositional departure to imprisonment; or, if confinement is for a misdemeanor, to jail for the term provided by law;</p> <p>(2) impose the fine applicable to the offense and may impose the provisions of subsection (q);</p> <p>(3) release the defendant on probation if the current crime of conviction and criminal history fall within a presumptive nonprison category or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate. In felony cases except for violations of K.S.A. 8-1567 or 8-2,144, and amendments thereto, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence;</p> <p>(4) assign the defendant to a community correctional services program as provided in K.S.A. 75-5291, and amendments thereto, or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;</p> |

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| | <p>(5) assign the defendant to a conservation camp for a period not to exceed six months as a condition of probation followed by a six-month period of follow-up through adult intensive supervision by a community correctional services program, if the offender successfully completes the conservation camp program;</p> <p>(6) assign the defendant to a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto;</p> <p>(7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by K.S.A. 21-6602(c), and amendments thereto;</p> <p>(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity which materially aided in the apprehension or conviction of the defendant; repay the amount of any costs and expenses incurred by any law enforcement agency in the apprehension of the defendant, if one of the current crimes of conviction of the defendant includes escape from custody or aggravated escape from custody, as defined in K.S.A. 21-5911, and amendments thereto; repay expenses incurred by a fire district, fire department or fire company responding to a fire which has been determined to be arson or aggravated arson as defined in K.S.A. 21-5812, and amendments thereto, if the defendant is convicted of such crime; repay the amount of any public funds utilized by a law enforcement agency to purchase controlled substances from the defendant during the investigation which leads to the defendant's conviction; or repay the amount of any medical costs and expenses incurred by any law enforcement agency or county. Such repayment of the amount of any such costs and expenses incurred by a county, law enforcement agency, fire district, fire department or fire company or any public funds utilized by a law enforcement agency shall be deposited and credited to the same fund from which the public funds were credited to prior to use by the county, law enforcement agency, fire district, fire department or fire company;</p> <p>(9) order the defendant to pay the administrative fee authorized by K.S.A. 22-4529, and amendments thereto, unless waived by the court;</p> <p>(10) order the defendant to pay a domestic violence special program fee authorized by K.S.A. 20-369, and amendments thereto;</p> <p>(11) if the defendant is convicted of a misdemeanor or convicted of a felony specified in K.S.A. 21-6804(i), and amendments thereto, assign the defendant to work release program, other than a program at a correctional institution under the control of the secretary of corrections as defined in K.S.A. 75-5202, and amendments thereto, provided such work release program requires such defendant to return to confinement at the end of each day in the work release program. On a second or subsequent conviction of K.S.A. 8-1567, and amendments thereto, an offender placed into a work release program shall serve the total number of hours of confinement mandated by that section;</p> |

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| | <p>(12) order the defendant to pay the full amount of unpaid costs associated with the conditions of release of the appearance bond under K.S.A. 22-2802, and amendments thereto;</p> <p>(13) impose any appropriate combination of (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12); or</p> <p>(14) suspend imposition of sentence in misdemeanor cases.</p> <p>(b)(1) In addition to or in lieu of any of the above, the court shall order the defendant to pay restitution, which shall include, but not be limited to, damage or loss caused by the defendant’s crime, unless the court finds compelling circumstances which would render a plan of restitution unworkable. In regard to a violation of K.S.A. 21-6107, and amendments thereto, such damage or loss shall include, but not be limited to, attorney fees and costs incurred to repair the credit history or rating of the person whose personal identification documents were obtained and used in violation of such section, and to satisfy a debt, lien or other obligation incurred by the person whose personal identification documents were obtained and used in violation of such section. In regard to a violation of K.S.A. 21-5801, 21-5807 or 21-5813, and amendments thereto, such damage or loss shall include the cost of repair or replacement of the property that was damaged, the reasonable cost of any loss of production, crops and livestock, reasonable labor costs of any kind, reasonable material costs of any kind and any reasonable costs that are attributed to equipment that is used to abate or repair the damage to the property. If the court finds a plan of restitution unworkable, the court shall state on the record in detail the reasons therefor.</p> <p>(2) If the court orders restitution, the restitution shall be a judgment against the defendant which may be collected by the court by garnishment or other execution as on judgments in civil cases. If, after 60 days from the date restitution is ordered by the court, a defendant is found to be in noncompliance with the plan established by the court for payment of restitution, and the victim to whom restitution is ordered paid has not initiated proceedings in accordance with K.S.A. 60-4301 et seq., and amendments thereto, the court shall assign an agent procured by the attorney general pursuant to K.S.A. 75-719, and amendments thereto, to collect the restitution on behalf of the victim. The chief judge of each judicial district may assign such cases to an appropriate division of the court for the conduct of civil collection proceedings.</p> <p>(c) In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by K.S.A. 21-6602(d), and amendments thereto.</p> <p>(d) In addition to any of the above, the court shall order the defendant to reimburse the county general fund for all or a part of the expenditures by the county to provide counsel and other defense services to the defendant. Any such reimbursement to the county shall be paid only after any order for restitution has been paid in full. In determining the amount and method of payment of such sum, the court shall take account of the financial</p> |

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| | <p>resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.</p> <p>(e) In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole, conditional release or postrelease supervision.</p> <p>....</p> <p><i>Kan. Stat. Ann. § 22-3424 (Judgment and sentence; restitution; duties of court).</i></p> <p>(a) The judgment shall be rendered and sentence imposed in open court.</p> <p>(b) If the verdict or finding is not guilty, judgment shall be rendered immediately and the defendant shall be discharged from custody and the obligation of the defendant's appearance bond.</p> <p>(c) If the verdict or finding is guilty, judgment shall be rendered and sentence pronounced without unreasonable delay, allowing adequate time for the filing and disposition of post-trial motions and for completion of such presentence investigation as the court may require.</p> <p>(d)(1) If the verdict or finding is guilty, upon request of the victim or the victim's family and before imposing sentence, the court shall hold a hearing to establish restitution. The defendant may waive the right to the hearing and accept the amount of restitution as established by the court. If the court orders restitution to be paid to the victim or the victim's family, the order shall be enforced as a judgment of restitution pursuant to K.S.A. 60-4301 through 60-4304, and amendments thereto.</p> <p>(2)(A) The court shall order a person convicted of human trafficking or aggravated human trafficking, K.S.A. 21-3446 or 21-3447, prior to their repeal, or K.S.A. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, K.S.A. 21-6422, and amendments thereto, to pay restitution to the victim of the offense for:</p> <p>(i) Expenses incurred or reasonably certain to be incurred by the victim as a result of the offense, including reasonable attorney fees and costs; and</p> <p>(ii) an amount equal to three times the greatest of the following, with no reduction for expenses the defendant incurred to maintain the victim:</p> |

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| | <p>(a) The gross income to the defendant for, or the value to the defendant of, the victim’s labor or services or sexual activity;</p> <p>(b) the amount the defendant contracted to pay the victim; or</p> <p>(c) the value of the victim’s labor or services or sexual activity, calculated under the minimum wage and overtime provisions of the federal fair labor standards act, 29 U.S.C. § 201 et seq., or under K.S.A. 44-1203, and amendments thereto, whichever is higher, even if the provisions do not apply to the victim’s labor or services or sexual activity.</p> <p>(B) The court shall order restitution under subsection (d)(2) even if the victim is unavailable to accept payment of restitution.</p> <p>(C) If the victim does not claim restitution ordered under subsection (d)(2) for five years after entry of the order, the restitution must be paid to the human trafficking victim assistance fund created by K.S.A. 75-758, and amendments thereto, to help victims.</p> <p>(e) Before imposing sentence the court shall: (1) Allow the prosecuting attorney to address the court, if the prosecuting attorney so requests; (2) afford counsel an opportunity to speak on behalf of the defendant; (3) allow the victim or such members of the victim’s family as the court deems appropriate to address the court, if the victim or the victim’s family so requests; and (4) address the defendant personally and ask the defendant if the defendant wishes to make a statement on the defendant’s own behalf and to present any evidence in mitigation of punishment.</p> <p>(f) After imposing sentence in a case which has gone to trial on a plea of not guilty, the court shall advise the defendant of the defendant’s right to appeal and of the right of a person who is unable to pay the costs of an appeal to appeal in forma pauperis.</p> |
| Kentucky | <p><i>Ky. Const. § 26A (Victims’ Bill of Rights) (Effective upon contingency).</i></p> <p>To secure for victims of criminal acts or public offenses justice and due process and to ensure crime victims a meaningful role throughout the criminal and juvenile justice systems, a victim, as defined by law which takes effect upon the enactment of this section and which may be expanded by the General Assembly, shall have the following rights, which shall be respected and protected by law in a manner no less vigorous than the protections afforded to the accused in the criminal and juvenile justice systems: victims shall have the reasonable right, upon request, to timely notice of all proceedings and to be heard in any proceeding involving a release, plea, sentencing, or other matter involving the right of a victim other than grand jury proceedings; the right to be present at the trial and all other proceedings, other than grand jury proceedings, on the same basis as</p> |

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| | <p>the accused; the right to proceedings free from unreasonable delay; the right to consult with the attorney for the Commonwealth or the attorney’s designee; the right to reasonable protection from the accused and those acting on behalf of the accused throughout the criminal and juvenile justice process; the right to timely notice, upon request, of release or escape of the accused; the right to have the safety of the victim and the victim’s family considered in setting bail, determining whether to release the defendant, and setting conditions of release after arrest and conviction; the right to full restitution to be paid by the convicted or adjudicated party in a manner to be determined by the court, except that in the case of a juvenile offender the court shall determine the amount and manner of paying the restitution taking into consideration the best interests of the juvenile offender and the victim; the right to fairness and due consideration of the crime victim’s safety, dignity, and privacy; and the right to be informed of these enumerated rights, and shall have standing to assert these rights. The victim, the victim’s attorney or other lawful representative, or the attorney for the Commonwealth upon request of the victim may seek enforcement of the rights enumerated in this section and any other right afforded to the victim by law in any trial or appellate court with jurisdiction over the case. The court shall act promptly on such a request and afford a remedy for the violation of any right Nothing in this section shall afford the victim party status, or be construed as altering the presumption of innocence in the criminal justice system. The accused shall not have standing to assert the rights of a victim. Nothing in this section shall be construed to alter the powers, duties, and responsibilities of the prosecuting attorney. Nothing in this section or any law enacted under this section creates a cause of action for compensation, attorney’s fees, or damages against the Commonwealth, a county, city, municipal corporation, or other political subdivision of the Commonwealth, an officer, employee, or agent of the Commonwealth, a county, city, municipal corporation, or any political subdivision of the Commonwealth, or an officer or employee of the court. Nothing in this section or any law enacted under this section shall be construed as creating:</p> <ol style="list-style-type: none"> (1) A basis for vacating a conviction; or (2) A ground for any relief requested by the defendant. <p><i>Ky. Rev. Stat. Ann. § 421.500 (“Victim” defined for KRS 421.500 to 421.575; applicability; required notifications; duties of public officers and agencies; restitution; construction of KRS 421.500 to 421.575) (effective upon contingency).</i></p> <p>(1) (a) As used in KRS 421.500 to 421.575, “victim” means an individual directly and proximately harmed as a result of:</p> |

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| | <p>1. The commission of a crime classified as a felony; a misdemeanor involving threatened or actual physical injury, harassment, or restraint; a misdemeanor involving a child or incompetent person; or a misdemeanor involving a sexual offense or a trespass; or</p> <p>2. Conduct which, if committed by an adult, would be classified as a felony or a misdemeanor described in subparagraph 1. of this paragraph.</p> <p>If the victim is a minor, incapacitated, or deceased, “victim” also means one (1) or more of the victim’s spouse, parents, siblings, children, or other lawful representatives which shall be designated by the court unless the person is the defendant or a person the court finds would not act in the best interests of the victim.</p> <p>(b) In a case in which the number of victims makes it impracticable to accord all victims those rights provided by KRS 421.500 to 421.575, the court may fashion a reasonable procedure that does not unduly complicate or prolong the proceeding, to give effect to this section.</p> <p>(c) If the victim is deceased and the relation is not the defendant, the following relations shall be designated as “victims” for the purpose of presenting victim impact testimony under KRS 532.055(2)(a)7.:</p> <ol style="list-style-type: none"> 1. A spouse; 2. An adult child; 3. A parent; 4. A sibling; and 5. A grandparent. <p>(2) If any court believes that the health, safety, or welfare of a victim who is a minor or is legally incapacitated would not otherwise adequately be protected, the court may appoint a special advocate to represent the interest of the victim and to exercise those rights provided for by KRS 421.500 to 421.575. Communication between the victim and the special advocate shall be privileged.</p> <p>(3) Law enforcement personnel shall ensure that victims receive information on available protective, emergency, social, and medical services upon initial contact with the victim and are given information on the following as soon as possible:</p> <ol style="list-style-type: none"> (a) Availability of crime victim compensation where applicable; (b) Community-based treatment programs; (c) The criminal justice process as it involves the participation of the victim or witness; (d) The arrest of the accused; and (e) How to register to be notified when a person has been released from prison, jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in |

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| | <p>KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A.</p> <p>(4) Law enforcement officers and attorneys for the Commonwealth shall provide information to victims and witnesses on how they may be protected from intimidation, harassment, and retaliation as defined in KRS 524.040 or 524.055.</p> <p>(5) Attorneys for the Commonwealth shall make a reasonable effort to insure that:</p> <p>(a) All victims and witnesses who are required to attend criminal justice proceedings are notified promptly of any scheduling changes that affect their appearances;</p> <p>(b) If victims so desire and if they provide the attorney for the Commonwealth with a current address and telephone number, they shall receive prompt notification, if possible, of judicial proceedings relating to their case, including but not limited to the defendant’s release on bond and any special conditions of release; of the charges against the defendant, the defendant’s pleading to the charges, and the date set for the trial; of notification of changes in the custody of the defendant and changes in trial dates; of the verdict, the victim’s right to make an impact statement for consideration by the court at the time of sentencing of the defendant, the date of sentencing, the victim’s right to receive notice of any parole board hearing held for the defendant, and that the office of Attorney General will notify the victim if an appeal of the conviction is pursued by the defendant; and of a scheduled hearing for shock probation or for bail pending appeal and any orders resulting from that hearing;</p> <p>(c) The victim knows how to register to be notified when a person has been released from a prison, jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A;</p> <p>(d) The victim receives information on available:</p> <ol style="list-style-type: none"> 1. Protective, emergency, social, and medical services; 2. Crime victim compensation, where applicable; 3. Restitution, where applicable; 4. Assistance from a victim advocate; and 5. Community-based treatment programs; and <p>(e) The victim of crime may, pursuant to KRS 15.247, receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts.</p> |

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| | <p>(6) The victim shall be consulted by the attorney for the Commonwealth on the disposition of the case, including dismissal, release of the defendant pending judicial proceedings, any conditions of release, a negotiated plea, and entry into a pretrial diversion program.</p> <p>(7) In prosecution for offenses listed in this section for the purpose of defining “victim,” law enforcement agencies and attorneys for the Commonwealth shall promptly return a victim’s property held for evidentiary purposes unless there is a compelling reason for retaining it. Photographs of such property shall be received by the court as competent evidence in accordance with the provisions of KRS 422.350.</p> <p>(8) A victim or witness who so requests shall be assisted by law enforcement agencies and attorneys for the Commonwealth in informing employers that the need for victim or witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work.</p> <p>(9) The Attorney General, where possible, shall provide technical assistance to law enforcement agencies and attorneys for the Commonwealth if such assistance is requested for establishing a victim assistance program.</p> <p>(10) If a defendant seeks appellate review of a conviction and the Commonwealth is represented by the Attorney General, the Attorney General shall make a reasonable effort to notify victims promptly of the appeal, the status of the case, and the decision of the appellate court.</p> <p>(11) Full restitution to a named victim, if there is a named victim, shall be ordered by the court to be paid by the convicted or adjudicated party in a manner consistent, insofar as possible, with this section and KRS 439.563, 532.032, 532.033, 533.020, and 533.030 in addition to any other penalty.</p> <p>(12) Nothing in KRS 421.500 to 421.575 shall be construed as altering the presumption of innocence in the criminal justice system, or to be a waiver of sovereign immunity or any other immunity or privilege maintained by the Commonwealth; its cabinets, departments, bureaus, political subdivisions, and agencies; and its officers, agents, and employees.</p> <p><i>Ky. Rev. Stat. Ann. § 431.200 (Reparation for property stolen or damaged, from person convicted).</i> Any person convicted of a misdemeanor or felony for taking, injuring or destroying property shall restore the property or make reparation in damages if not ordered as a condition of probation. The court in which the conviction is had, if applied to by verified petition made within ninety (90) days of the date the sentence was pronounced, may order restitution or give judgment against the defendant for reparation in damages, and enforce collection by execution or other process. In a petition for restitution or reparation, the court shall cause the defendant, if in custody, to be brought into court, and demand of him if he has any defense to make to the petition. If he consents to the restitution or to reparation in damages in an agreed sum, the court shall give judgment accordingly. Otherwise a jury shall be impaneled to try the facts and ascertain the amount and the</p> |

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| | <p>value of the property, or assess the damage, as the case may be. A failure to pursue this remedy shall not deprive the person aggrieved of his civil action for the injury sustained.</p> <p><i>Ky. Rev. Stat. Ann. § 532.032 (Restitution).</i></p> <p>(1) Restitution to a named victim, if there is a named victim, shall be ordered in a manner consistent, insofar as possible, with the provisions of this section and KRS 439.563, 532.033, 533.020, and 533.030 in addition to any other part of the penalty for any offense under this chapter. The provisions of this section shall not be subject to suspension or nonimposition.</p> <p>(2) If pretrial diversion is granted, restitution shall be a part of the diversion agreement.</p> <p>(3) If probation, shock probation, conditional discharge, or other alternative sentence is granted, restitution shall be a condition of the sentence.</p> <p>(4) If a person is sentenced to incarceration and paroled, restitution shall be made a condition of parole.</p> <p>(5) Restitution payments ordered under this section shall be paid by the defendant to the clerk or a court-authorized program run by the county attorney or the Commonwealth’s attorney of the county.</p> <p><i>Ky. Rev. Stat. Ann. § 532.033 (Order of restitution).</i></p> <p>When a judge orders restitution, the judge shall:</p> <p>(1) Order the restitution to be paid to a specific person or organization through the circuit clerk, who shall disburse the moneys as ordered by the court;</p> <p>(2) Be responsible for overseeing the collection of restitution;</p> <p>(3) Set the amount of restitution to be paid;</p> <p>(4) Set the amount and frequency of each restitution payment or require the payment to be made in a lump sum;</p> <p>(5) Monitor the payment of the restitution to assure that payment is being made;</p> <p>(6) If restitution is not being paid as ordered, hold a hearing to determine why the restitution is not being paid;</p> <p>(7) If the restitution is not being paid and no good reason exists therefor, institute sanctions against the defendant; and</p> <p>(8) Not release the defendant from probation supervision until restitution has been paid in full and all other aspects of the probation order have been successfully completed.</p> <p><i>Ky. Rev. Stat. Ann. § 532.034 (Restitution for financial loss resulting from theft of identity or trafficking in stolen identities).</i></p> |

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| | <p>1) A person found guilty of violating any provisions of KRS 434.872, 434.874, 514.160, or 514.170 shall, in addition to any other punishment, be ordered to make restitution for financial loss sustained by a victim as a result of the violation. Financial loss may include any costs incurred by the victim in correcting the credit history of the victim or any costs incurred in connection with any civil or administrative proceeding to satisfy any debt or other obligation of such victim, including lost wages and attorney’s fees.</p> <p>(2) A person found guilty of violating any provisions of KRS 434.872, 434.874, 514.160, or 514.170 shall pay restitution to the person or entity that suffers the financial loss. In addition to the financial loss detailed in subsection (1) of this section, the person or entity may include a financial institution, insurance company, or bonding association that suffers direct financial loss as a result of the violation.</p> <p><i>Ky. Rev. Stat. Ann. § 533.030 (Conditions of probation and conditional discharge; restitution to victim).</i></p> <p>(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.</p> <p>(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:</p> <ul style="list-style-type: none"> (a) Avoid injurious or vicious habits; (b) Avoid persons or places of disreputable or harmful character; (c) Work faithfully at suitable employment as far as possible; (d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose; (e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions; (f) Support his dependents and meet other family responsibilities; (g) Pay the cost of the proceeding as set by the court; (h) Remain within a specified area; (i) Report to the probation officer as directed; (j) Permit the probation officer to visit him at his home or elsewhere; (k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment; (l) Submit to periodic testing for the use of controlled substances or alcohol, if the defendant’s record indicates a controlled substance or alcohol problem, and to pay a reasonable fee, as determined by the court, which fee |

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| | <p>shall not exceed the actual cost of the test and analysis and shall be paid directly to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis, as specified by written order of the court, performed under this subsection. For good cause shown, the testing fee may be waived by the court;</p> <p>(m) Use an alcohol monitoring device, as defined in KRS 431.068. All costs associated with the device, including administrative and operating costs, shall be paid by the defendant. If the court determines that the defendant is indigent, and a person, county, or other organization has not agreed to pay the costs for the defendant in an attempt to reduce incarceration expenses and increase public safety, the court shall consider other conditions of probation or conditional discharge provided for in this section; or</p> <p>(n) During all or part of the period of probation or conditional discharge, participate in a global positioning monitoring system program operated by a county pursuant to KRS 67.372 and 67.374 under the same terms and conditions as provided in KRS 431.517.</p> <p>(3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or where the victim incurred expenses in relocating for the purpose of the victim's safety or the safety of a member of the victim's household, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Health and Family Services, the Kentucky Claims Commission, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars (\$100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two (2) amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then-prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work as specified in KRS 533.070. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employee for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:</p> |

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| | <p>(a) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;</p> <p>(b) The circuit clerk shall assess an additional fee of five percent (5%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall inure to a trust and agency account which shall not lapse and which shall be used to hire additional deputy clerks and office personnel or increase deputy clerk or office personnel salaries, or combination thereof;</p> <p>(c) When a defendant fails to make restitution ordered to be paid through the circuit clerk or a court-authorized program run by the county attorney or the Commonwealth's attorney, the circuit clerk or court-authorized program shall notify the court; and</p> <p>(d) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.</p> <p>(4) When requiring fees for controlled substances or alcohol tests, or other fees and payments authorized by this section or other statute, except restitution, to be paid by the defendant, the court shall not order the payments to be paid through the circuit clerk.</p> <p>(5) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.</p> <p>(6) When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed twelve (12) months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional discharge under KRS 533.060(2) or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.</p> |

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| Louisiana | <p><i>La. Const. art. 1, § 25 (Rights of a Victim).</i> Section 25. Any person who is a victim of crime shall be treated with fairness, dignity, and respect, and shall be informed of the rights accorded under this Section. As defined by law, a victim of crime shall have the right to reasonable notice and to be present and heard during all critical stages of preconviction and postconviction proceedings; the right to be informed upon the release from custody or the escape of the accused or the offender; the right to confer with the prosecution prior to final disposition of the case; the right to refuse to be interviewed by the accused or a representative of the accused; the right to review and comment upon the presentence report prior to imposition of sentence; the right to seek restitution; and the right to a reasonably prompt conclusion of the case. The legislature shall enact laws to implement this Section. The evidentiary and procedural laws of this state shall be interpreted in a manner consistent with this Section. Nothing in this Section shall be construed to inure to the benefit of an accused or to confer upon any person the right to appeal or seek supervisory review of any judicial decision made in a criminal proceeding. Nothing in this Section shall be the basis for an award of costs or attorney fees, for the appointment of counsel for a victim, or for any cause of action for compensation or damages against the state of Louisiana, a political subdivision, a public agency, or a court, or any officer, employee, or agent thereof. Remedies to enforce the rights enumerated in this Section shall be provided by law.</p> <p><i>La. Stat. Ann. § 15:539.3 (Mandatory restitution).</i> A. A person convicted of a violation of R.S. 14:46.2 (human trafficking), R.S. 14:46.3 (trafficking of children for sexual purposes), R.S. 14:81.1 (pornography involving juveniles), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S. 14:82.1 (prostitution; persons under eighteen; additional offenses), R.S. 14:83 (soliciting for prostitutes), R.S. 14:83.1 (inciting prostitution), R.S. 14:83.2 (promoting prostitution), R.S. 14:84 (pandering), R.S. 14:86 (enticing persons into prostitution), R.S. 14:104 (keeping a disorderly place), R.S. 14:105 (letting a disorderly place), and R.S. 14:282 (operation of places of prostitution) shall be ordered to pay mandatory restitution to the victim, with the proceeds from property forfeited under R.S. 15:539.1 applied first to payment of restitution, after the costs of the public sale or auction, court costs, and fees related to seizure and storage have been satisfied. Restitution under this Section shall include any of the following: (1) Costs of medical and psychological treatment. (2) Costs of necessary transportation and temporary housing. (3) The greater of the value of the victim’s labor as guaranteed under the minimum wage and overtime provisions of the federal Fair Labor Standards Act or the gross income or value to the defendant of the victim’s labor or services engaged in by the victim while in the human trafficking situation. In the case of sex</p> |

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| | <p>trafficking, the victim shall be entitled to restitution for the income he would have earned, had he not been victimized, as guaranteed under the minimum wage and overtime provisions of the federal Fair Labor Standards Act.</p> <p>(4) Return of property, cost of damage to property, or full value of property if destroyed or damaged beyond repair.</p> <p>(5) Expenses incurred by the victim and any household members or other family members in relocating away from the defendant or the defendant’s associates, including but not limited to deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items. Expenses incurred pursuant to this Section shall be verified by law enforcement to be necessary for the personal safety of the victim or household or family members, or by a mental health treatment provider to be necessary for the emotional well-being of the victim.</p> <p>B. For purposes of this Section, the return of the victim to the victim’s home country or other absence of the victim from the jurisdiction shall not prevent the victim from receiving restitution.</p> <p><i>La. Stat. Ann. § 46:1844 (Basic rights for victim and witness).</i></p> <p>...</p> <p>M. Victims’ right to seek restitution.</p> <p>(1) If the defendant is found guilty, the court or committee on parole shall require the defendant to pay restitution to the appropriate party in an amount and manner determined by the court. In addition, the court or committee on parole may require the defendant to perform community service work in an amount and according to a schedule determined by the court.</p> <p>(2) One of the conditions of work release shall be a requirement that an inmate pay from his earnings all restitution ordered by the court or the committee on parole. Even if no restitution has been ordered, the sheriff or director of the program shall have the right to require payment of restitution as a condition of work release.</p> <p>(3) A victim shall not be required to pay recording fees for the filing of a restitution order with the clerk of court. The defendant shall be responsible for all costs associated with this action.</p> <p>....</p> <p><i>La. Code Crim. Proc. Ann. art. 883.2 (Restitution to victim).</i></p> <p>A. In all cases in which the court finds an actual pecuniary loss to a victim, or in any case where the court finds that costs have been incurred by the victim in connection with a criminal prosecution, the trial court shall order the defendant to provide restitution to the victim as a part of any sentence that the court shall impose.</p> |

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| | <p>B. Additionally, if the defendant agrees as a term of a plea agreement, the court shall order the defendant to provide restitution to other victims of the defendant’s criminal conduct, although those persons are not the victim of the criminal charge to which the defendant pleads. Such restitution to other persons may be ordered pursuant to Article 895 or 895.1 of this Code or any other provision of law permitting or requiring restitution to victims.</p> <p>C. The court shall order that all restitution payments be made by the defendant to the victim through the court’s designated intermediary, and in no case shall the court order the defendant to deliver or send a restitution payment directly to a victim, unless the victim consents. <Text of par. D effective until August 1, 2019.></p> <p>D. Notwithstanding any other provision of law to the contrary, if the defendant is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court may order a periodic payment plan consistent with the person’s financial ability. <Text of par. D effective August 1, 2019.></p> <p>D. Notwithstanding any other provision of law to the contrary, if the defendant is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court may order a periodic payment plan pursuant to the provisions of Article 875.1.</p> <p><i>La. Code Crim. Proc. Ann. art. 895.1 (Probation; restitution; judgment for restitution; fees).</i> <Text of subpar. (A)(1) effective until August 1, 2019.></p> <p>A. (1) When a court places the defendant on probation, it shall, as a condition of probation, order the payment of restitution in cases where the victim or his family has suffered any direct loss of actual cash, any monetary loss pursuant to damage to or loss of property, or medical expense. The court shall order restitution in a reasonable sum not to exceed the actual pecuniary loss to the victim in an amount certain. However, any additional or other damages sought by the victim and available under the law shall be pursued in an action separate from the establishment of the restitution order as a civil money judgment provided for in Subparagraph (2) of this Paragraph. The restitution payment shall be made, in discretion of the court, either in a lump sum or in monthly installments based on the earning capacity and assets of the defendant. <Text of subpar. (A)(1) effective August 1, 2019.></p> <p>A. (1) When a court places the defendant on probation, it shall, as a condition of probation, order the payment of restitution in cases where the victim or his family has suffered any direct loss of actual cash, any monetary loss pursuant to damage to or loss of property, or medical expense. The court shall order restitution in a reasonable sum not to exceed the actual pecuniary loss to the victim in an amount certain. However, any</p> |

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| | <p>additional or other damages sought by the victim and available under the law shall be pursued in an action separate from the establishment of the restitution order as a civil money judgment provided for in Subparagraph (2) of this Paragraph. If the court has determined, pursuant to the provisions of Article 875.1, that payment in full of the aggregate amount of all financial obligations imposed upon the defendant would cause substantial financial hardship to the defendant or his dependents, restitution payments shall be made pursuant to the provisions of Article 875.1.</p> <p><Text of subsubpar. (A)(2)(a) effective until August 1, 2019.></p> <p>(2)(a) The order to pay restitution together with any order to pay costs or fines, as provided in this Article, is deemed a civil money judgment in favor of the person to whom restitution, costs, or fines is owed, if the defendant is informed of his right to have a judicial determination of the amount and is provided with a hearing, waived a hearing, or stipulated to the amount of the restitution, cost, or fine ordered. In addition to proceedings had by the court which orders the restitution, cost, or fine, the judgment may be enforced in the same manner as a money judgment in a civil case. Likewise, the judgment may be filed as a lien as provided by law for judgment creditors. Prior to the enforcement of the restitution order, or order for costs or fines, the defendant shall be notified of his right to have a judicial determination of the amount of restitution, cost, or fine. Such notice shall be served personally by the district attorney's office of the respective judicial district in which the restitution, cost, or fine is ordered.</p> <p><Text of subsubpar. (A)(2)(a) effective August 1, 2019.></p> <p>(2)(a) The order to pay restitution together with any order to pay costs or fines, as provided in this Article, is deemed a civil money judgment in favor of the person to whom restitution, costs, or fines is owed, if the defendant is informed of his right to have a judicial determination of the amount and is provided with a hearing. In addition to proceedings by the court which orders the restitution, cost, or fine, the judgment may be enforced in the same manner as a money judgment in a civil case. Likewise, the judgment may be filed as a lien as provided by law for judgment creditors. Prior to the enforcement of the restitution order, or order for costs or fines, the defendant shall be notified of his right to have a judicial determination of the amount of restitution, cost, or fine. Such notice shall be served personally by the district attorney's office of the respective judicial district in which the restitution, cost, or fine is ordered.</p> <p>(b) In addition to the powers under R.S. 13:1336, the Criminal District Court for the Parish of Orleans shall have the authority to order the payment of restitution as provided in this Paragraph. The enforcement of the judgment for restitution shall be filed in the Civil District Court for the Parish of Orleans.</p> <p>(3) The court which orders the restitution shall provide written evidence of the order which constitutes the judgment.</p> |

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| | <p>(4) The court may suspend payment of any amount awarded hereunder and may suspend recordation of any judgment hereunder during the pendency of any civil suit instituted to recover damages, from said defendant brought by the victim or victims which arises out of the same act or acts which are the subject of the criminal offense contemplated hereunder.</p> <p>(5) The amount of any judgment by the court hereunder, shall be credited against the amount of any subsequent civil judgment against the defendant and in favor of the victim or victims, which arises out of the same act or acts which are the subject of the criminal offense contemplated hereunder.</p> <p>B. When a court suspends the imposition or the execution of a sentence and places the defendant on probation, it may in its discretion, order placed, as a condition of probation, an amount of money to be paid by the defendant to any or all of the following:</p> <p>(1) To the indigent defender program for that court.</p> <p>(2) To the criminal court fund to defray the costs of operation of that court.</p> <p>(3) To the sheriff and clerk of court for costs incurred.</p> <p>(4) To a law enforcement agency for the reasonable costs incurred in arresting the defendant, in felony cases involving the distribution of or intent to distribute controlled dangerous substances.</p> <p>(5) To the victim to compensate him for his loss and inconvenience. Such an amount may be in addition to any amounts ordered to be paid by the defendant under Paragraph A herein.</p> <p>(6) To a duly incorporated crime stoppers organization for the reasonable costs incurred in obtaining information which leads to the arrest of the defendant.</p> <p>....</p> |
| <p>Maine</p> | <p><i>Me. Stat. tit. 17-a, § 1322 (Definitions).</i></p> <p>As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.</p> <p>1. Collateral source. “Collateral source” means a source of benefits or advantages for economic loss resulting from a crime, which the victim has received, or which is readily available to him from:</p> <p>A. The Government of the United States or any agency thereof, a state or any of its political subdivisions, or an instrumentality of 2 or more states unless the law providing for the benefits or advantages makes them excess or secondary to benefits under this chapter;</p> <p>B. Social security, Medicare and Medicaid;</p> <p>C. Workers’ compensation;</p> |

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| | <p>D. Wage continuation programs of any employer;</p> <p>E. Proceeds of a contract of insurance payable to the victim for loss which he sustained because of the criminal conduct; or</p> <p>F. A contract providing prepaid hospital and other health care services or benefits for disability.</p> <p>2. Dependent. “Dependent” means a natural person who is wholly or partially dependent upon the victim for care or support and includes a child of the victim born after his death.</p> <p>3. Economic loss. “Economic loss” includes economic detriment consisting of environmental clean-up expense, property loss, allowable expense, work loss, replacement services loss and, if injury causes death, dependent’s economic loss and dependent’s replacement services loss. Noneconomic detriment is not loss. Economic detriment is loss although caused by pain and suffering or physical impairment. “Economic loss” includes expenses of an emergency response by any public agency and critical investigation expenses.</p> <p>A. “Allowable expense” means reasonable charges incurred for reasonably needed products, services and accommodations, including those for medical care, rehabilitation, rehabilitative occupational training, counseling services and other remedial treatment and care, and nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing. The term includes reasonable and customary charges incurred for expenses in any way related to funeral, cremation and burial. It does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semiprivate accommodations, unless other accommodations are medically required.</p> <p>A-1. “Critical investigation expense” means a necessary expense incurred by a government or by a victim while investigating or prosecuting suspected criminal conduct. “Critical investigation expense” is limited to the cost of an audit or other financial analysis when that analysis is necessary to determine whether and to what extent a victim has suffered financial harm from criminal conduct by an employee or other person in a position of trust and the cost of analysis of suspected illegal drugs.</p> <p>B. “Dependent’s economic loss” means loss after a decedent’s death of contributions of things of economic value to the decedent’s dependents, not including services they would have received from the decedent if the decedent had not suffered the fatal injury, less expenses of the dependents avoided by reason of decedent’s death.</p> <p>C. “Dependent’s replacement loss” means loss reasonably incurred by dependents after a decedent’s death in obtaining ordinary and necessary services in lieu of those the decedent would have performed for their benefit if the decedent had not suffered the fatal injury, less expenses of the dependents avoided by reason of the decedent’s death and not subtracted in calculating dependent’s economic loss.</p> |

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| | <p>C-1. “Environmental clean-up expense” means any reasonable expense incurred for products and services needed to clean up any harm or damage caused to the environment, including any harm or damage caused by chemicals; to restore the environment to its previous condition prior to any harm or damage; and to properly dispose of chemicals and other materials, including those used in the manufacture of scheduled drugs in violation of chapter 45.1</p> <p>C-2. “Expense of an emergency response” means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, including a response to a suspected unlawful methamphetamine laboratory under section 1124, but only includes those costs directly arising because of the response to the particular incident. Reasonable costs include the costs of providing police, firefighting, rescue and emergency medical services at the scene of the incident, as well as the compensation for the personnel, including trained laboratory personnel, responding to the incident. “Public agency” means the State or any county, municipality, district or public authority located, in whole or in part, within this State that provides or may provide laboratory services or police, firefighting, ambulance or other emergency services.</p> <p>D. “Property loss” means the value of property taken from the victim, or of property destroyed or otherwise broken or harmed. A property loss includes the value of taxes or other obligations due to the government that have not been paid. “Property loss” also includes, in cases involving a violation of chapter 45, the value of money or other consideration given or offered in exchange for scheduled drugs by a law enforcement officer or another at the direction of a law enforcement officer that are not, in fact, recovered by the State at the time of sentencing, regardless of whether other money or items of value are sought, acquired or forfeited pursuant to Title 15, chapter 515.2 In cases involving a violation of chapter 45, the court must make a finding that the property loss is specifically related to that case.</p> <p>E. “Replacement services loss” means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but for the benefit of the injured person or the injured person’s family, if the injured person had not been injured.</p> <p>F. “Work loss” means loss of income from work the injured person would have performed if the injured person had not been injured and expenses reasonably incurred by the injured person in obtaining services in lieu of those the injured person would have performed for income, reduced by any income for substitute work actually performed by the injured person or by income the injured person would have earned in available appropriate substitute work the injured person was capable of performing but unreasonably failed to undertake. For a victim of a human trafficking offense as defined in Title 5, section 4701, subsection 1, paragraph C, “work loss” includes pay or benefits unfairly or illegally withheld from the victim by the offender or any unfair labor agreement under Title 26, section 629, as defined by rules adopted by the Department of Labor.</p> |

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| | <p>4. Noneconomic detriment. “Noneconomic detriment” means pain, suffering, inconvenience, physical impairment and other nonpecuniary damage.</p> <p>5. Offender. “Offender” means any natural person or organization convicted of a crime.</p> <p>6. Restitution. “Restitution” means:</p> <ul style="list-style-type: none"> A. Monetary reimbursement, in whole or in part, for economic loss; B. Work or service provided to a victim for economic loss; or C. Any combination of service or monetary reimbursement by an offender to the victim of his crime or to other authorized claimants, either directly or indirectly. <p>7. Victim. “Victim” means a government that suffers economic loss or a person who suffers personal injury, death or economic loss as a result of a crime or the good faith effort of any person to prevent a crime.</p> <p><i>Me. Stat. tit. 17-a, § 1323 (Mandatory consideration of restitution).</i></p> <p>1. Inquiry as to victim’s financial loss. The court shall, whenever practicable, inquire of a prosecutor, law enforcement officer or victim with respect to the extent of the victim’s financial loss, and shall order restitution when appropriate. The order for restitution shall designate the amount of restitution to be paid and the person or persons to whom the restitution will be paid.</p> <p>2. Reasons for not imposing restitution. In any case where the court determines that restitution should not be imposed in accordance with the criteria set forth in section 1325, the court shall state in open court or in writing the reasons for not imposing restitution.</p> <p>3. Restitution required. In any prosecution for a crime committed prior to the effective date of this chapter, or any amendment to this chapter, the court may, with the consent of the defendant, require the defendant to make restitution in accordance with this chapter as amended.</p> <p><i>Me. Stat. tit. 17-a, § 1325 (Criteria for restitution).</i></p> <p>1. Restitution authorized. Restitution may be authorized, in whole or in part, as compensation for economic loss. In determining the amount of restitution authorized, the following shall be considered:</p> <ul style="list-style-type: none"> A. The contributory misconduct of the victim; B. Failure to report the crime to a law enforcement officer within 72 hours after its occurrence, without good cause for failure to report within that time; and C. The present and future financial capacity of the offender to pay restitution. <p>2. Restitution not authorized. Restitution shall not be authorized:</p> <ul style="list-style-type: none"> A. To a victim without that victim’s consent; |

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| | <p>B. To a victim who is an accomplice of the offender;</p> <p>C. To a victim who has otherwise been compensated from a collateral source, but economic loss in excess of the collateral compensation may be authorized; and</p> <p>D. When the amount and method of payment of monetary restitution or the performance of service restitution creates an excessive financial hardship on the offender or dependent of the offender. In making this determination, all relevant factors must be considered, including, but not limited to the following:</p> <ol style="list-style-type: none"> (1) The number of the offender's dependents; (2) The minimum living expenses of the offender and the offender's dependents; (3) The special needs of the offender and the offender's dependents, including necessary travel expense to and from work; (4) The offender's present income and potential future earning capacity; and (5) The offender's resources, from whatever source. <p>3. Exception. The provisions of subsection 2, paragraph D, do not apply to an offender which is an organization.</p> <p>4. Burdens of proof. An offender who asserts a present or future incapacity to pay restitution has the burden of proving the incapacity by a preponderance of the evidence. On appeal of a restitution order, the offender has the burden of demonstrating that the incapacity was proven as a matter of law.</p> |
| <p>Maryland</p> | <p><i>Md. Code Ann., Crim. Proc. § 11-603 (Judgment of restitution).</i></p> <p>(a) A court may enter a judgment of restitution that orders a defendant or child respondent to make restitution in addition to any other penalty for the commission of a crime or delinquent act, if:</p> <ol style="list-style-type: none"> (1) as a direct result of the crime or delinquent act, property of the victim was stolen, damaged, destroyed, converted, or unlawfully obtained, or its value substantially decreased; (2) as a direct result of the crime or delinquent act, the victim suffered: <ol style="list-style-type: none"> (i) actual medical, dental, hospital, counseling, funeral, or burial expenses or losses; (ii) direct out-of-pocket loss; (iii) loss of earnings; or (iv) expenses incurred with rehabilitation; (3) the victim incurred medical expenses that were paid by the Maryland Department of Health or any other governmental unit; |

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| | <p>(4) a governmental unit incurred expenses in removing, towing, transporting, preserving, storing, selling, or destroying an abandoned vehicle as defined in § 25-201 of the Transportation Article;</p> <p>(5) the Criminal Injuries Compensation Board paid benefits to a victim; or</p> <p>(6) the Maryland Department of Health or other governmental unit paid expenses incurred under Subtitle 1, Part II of this title.</p> <p>Victim presumed to have right to restitution</p> <p>(b) A victim is presumed to have a right to restitution under subsection (a) of this section if:</p> <p>(1) the victim or the State requests restitution; and</p> <p>(2) the court is presented with competent evidence of any item listed in subsection (a) of this section.</p> <p>Civil actions to recover damages</p> <p>(c)(1) A judgment of restitution does not preclude the property owner or the victim who suffered personal physical or mental injury, out-of-pocket loss of earnings, or support from bringing a civil action to recover damages from the restitution obligor.</p> <p>(2) A civil verdict shall be reduced by the amount paid under the criminal judgment of restitution.</p> <p>Children who have committed acts of graffiti</p> <p>(d) In making a disposition on a finding that a child at least 13 years old has committed an act of graffiti under § 6-301(d) of the Criminal Law Article, the court shall order the child to perform community service or pay restitution or both.</p> <p><i>Md. Code Ann., Crim. Proc. § 11-605 (When restitution need not be ordered).</i></p> <p>Inability of obligors to pay restitution or extenuating circumstances</p> <p>(a) A court need not issue a judgment of restitution under Part I of this subtitle if the court finds:</p> <p>(1) that the restitution obligor does not have the ability to pay the judgment of restitution; or</p> <p>(2) that there are extenuating circumstances that make a judgment of restitution inappropriate.</p> <p>Statement of reasons for refusal to order restitution</p> <p>(b) A court that refuses to order restitution that is requested under Part I of this subtitle shall state on the record the reasons.</p> |
| <p>Massachusetts</p> | <p><i>Mass. Gen. Laws Ann. ch. 258B, § 3 (Rights afforded victims, witnesses or family members).</i></p> <p>To provide victims a meaningful role in the criminal justice system, victims and witnesses of crime, or in the event the victim is deceased, the family members of the victim, shall be afforded the following basic and</p> |

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| | <p>fundamental rights, to the greatest extent possible and subject to appropriation and to available resources, with priority for services to be provided to victims of crimes against the person and crimes where physical injury to a person results:</p> <p>(a) for victims, to be informed by the prosecutor about the victim’s rights in the criminal process, including but not limited to the rights provided under this chapter. At the beginning of the criminal justice process, the prosecutor shall provide an explanation to the victim of how a case progresses through the criminal justice system, what the victim’s role is in the process, what the system may expect from the victim, why the system requires this, and, if the victim requests, the prosecutor shall periodically apprise the victim of significant developments in the case;</p> <p>(b) for victims and family members, to be present at all court proceedings related to the offense committed against the victim, unless the victim or family member is to testify and the court determines that the person’s testimony would be materially affected by hearing other testimony at trial and orders the person to be excluded from the courtroom during certain other testimony;</p> <p>(c) for victims and witnesses, to be notified by the prosecutor, in a timely manner, when a court proceeding to which they have been summoned will not go on as scheduled, provided that such changes are known in advance. In order to notify victims and witnesses, a form shall be provided to them by the prosecutor for the purpose of maintaining a current telephone number and address. The victim or witness shall thereafter maintain with the prosecutor a current telephone number and address;</p> <p>(d) for victims and witnesses, to be provided with information by the prosecutor as to the level of protection available and to receive protection from the local law enforcement agencies from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts;</p> <p>(e) for victims, to be informed by the prosecutor of financial assistance and other social services available to victims, including information relative to applying for such assistance or services;</p> <p>(f) for victims and witnesses, to a prompt disposition of the case in which they are involved as a victim or a witness;</p> <p>(g) for victims, to confer with the prosecutor before the commencement of the trial, before any hearing on motions by the defense to obtain psychiatric or other confidential records, and before the filing of a nolle prosequi or other act by the commonwealth terminating the prosecution or before the submission of the commonwealth’s proposed sentence recommendation to the court. The prosecutor shall inform the court of the victim’s position, if known, regarding the prosecutor’s sentence recommendation. The right of the victim to confer with the prosecutor does not include the authority to direct the prosecution of the case;</p> |

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| | <p>(h) for victims and witnesses, to be informed of the right to request confidentiality in the criminal justice system. Upon the court’s approval of such request, no law enforcement agency, prosecutor, defense counsel, or parole, probation or corrections official may disclose or state in open court, except among themselves, the residential address, telephone number, or place of employment or school of the victim, a victim’s family member, or a witness, except as otherwise ordered by the court. The court may enter such other orders or conditions to maintain limited disclosure of the information as it deems appropriate to protect the privacy and safety of victims, victims’ family members and witnesses;</p> <p>(i) for victims, family members and witnesses to be provided, by the court as provided in section 17 of chapter 211B, with a secure waiting area or room which is separate from the waiting area of the defendant or the defendant’s family, friends, attorneys or witnesses and separate from the district attorney’s office; provided, however, that the court shall designate a waiting area at each courthouse; and provided further, that designation of those areas shall be made in accordance with the implementation plan developed by the task force.</p> <p>(j) for victims and witnesses, to be informed by the court and the prosecutor of procedures to be followed in order to apply for and receive any witness fee to which they are entitled;</p> <p>(k) for victims and witnesses, to be provided, where appropriate, with employer and creditor intercession services by the prosecutor to seek employer cooperation in minimizing employees’ loss of pay and other benefits resulting from their participation in the criminal justice process, and to seek consideration from creditors if the victim is unable, temporarily, to continue payments;</p> <p>(l) for victims or witnesses who have received a subpoena to testify, to be free from discharge or penalty or threat of discharge or penalty by his employer by reason of his attendance as a witness at a criminal proceeding. A victim or witness who notifies his employer of his subpoena to appear as a witness prior to his attendance, shall not on account of his absence from employment by reason of such witness service be subject to discharge or penalty by his employer. Any employer or agent of said employer who discharges or disciplines or continues to threaten to discharge or discipline a victim or witness because that victim or witness is subpoenaed to attend court for the purpose of giving testimony may be subject to the sanctions stated in section fourteen A of chapter two hundred and sixty-eight;</p> <p>(m) for victims and witnesses, to be informed of the right to submit to or decline an interview by defense counsel or anyone acting on the defendant’s behalf, except when responding to lawful process, and, if the victim or witness decides to submit to an interview, the right to impose reasonable conditions on the conduct of the interview;</p> <p>(n) for victims, to confer with the probation officer prior to the filing of the full presentence report. If the victim is not available or declines to confer, the probation officer shall record that information in the report. If the</p> |

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| | <p>probation officer is not able to confer with the victim or the victim declines to confer, the probation officer shall note in the full presentence report the reason why the probation officer did not make contact with the victim;</p> <p>(o) for victims, to request that restitution be an element of the final disposition of a case and to obtain assistance from the prosecutor in the documentation of the victim’s losses. If restitution is ordered as part of a case disposition, the victim has the right to receive from the probation department a copy of the schedule of restitution payments and the name and telephone number of the probation officer or other official who is responsible for supervising the defendant’s payments. If the offender seeks to modify the restitution order, the offender’s supervising probation officer shall provide notice to the victim and the victim shall have the right to be heard at any hearing relative to the proposed modification.</p> <p>(p) for victims, to be heard through an oral and written victim impact statement at sentencing or the disposition of the case against the defendant about the effects of the crime on the victim and as to a recommended sentence, pursuant to section four B of chapter two hundred and seventy-nine, and to be heard at any other time deemed appropriate by the court. The victim also has a right to submit the victim impact statement to the parole board for inclusion in its records regarding the perpetrator of the crime;</p> <p>(q) for victims, to be informed by the prosecutor of the final disposition of the case, including, where applicable, an explanation of the type of sentence imposed by the court and a copy of the court order setting forth the conditions of probation or other supervised or unsupervised release within thirty days of establishing the conditions, with the name and telephone number of the probation officer, if any, assigned to the defendant;</p> <p>(r) for victims, to have any personal property that was stolen or taken for evidentiary purposes, except contraband, property subject to evidentiary analysis, and property the ownership of which is disputed, returned by the court, the prosecutor or law enforcement agencies within ten days of its taking or recovery if it is not needed for law enforcement or prosecution purposes or as expeditiously as possible when said property is no longer needed for law enforcement or prosecution purposes;</p> <p>(s) for victims, to be informed by the parole board of information regarding the defendant’s parole eligibility and status in the criminal justice system;</p> <p>(t) for victims, to be informed in advance by the appropriate custodial authority whenever the defendant receives a temporary, provisional or final release from custody, whenever a defendant is moved from a secure facility to a less-secure facility, and whenever the defendant escapes from custody. The victim shall be informed by the prosecutor about notification rights and the certification process required to access the criminal offender record information files. Persons requesting such notice must provide the appropriate authority with current information as to their address and telephone number;</p> |

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| | <p>(u) for victims, to be informed that the victim may have a right to pursue a civil action for damages relating to the crime, regardless of whether the court has ordered the defendant to make restitution to the victim.</p> <p>(v) for one family member of a victim of a homicide, which the matter before the court is related, to possess in the courtroom a photograph, that is not of itself of an inflammatory nature, of the deceased victim that is not larger than eight by ten inches; provided, however, that at no time may the photograph be exposed or in anyway displayed in the presence of any member of the jury, or the jury pool from which a jury is to be selected in a particular matter; provided, further, that nothing in this section shall preclude the admission into evidence of a photograph that the court deems relevant and material.</p> <p>(w) Where the victim or witness is an employee of the department of youth services, no law enforcement agency, prosecutor, defense counsel or parole, probation or corrections official shall disclose or state the residential address, telephone number or place of employment or school of the victim, a victim's family member or a witness, except as otherwise ordered by the court. The court may enter such other orders or conditions to maintain limited disclosure of the information as it deems appropriate to protect the privacy and safety of victims, victims' family members and witnesses.</p> <p>There shall be conspicuously posted in all courthouses and police stations a summary of the rights afforded under this section. The victim and witness assistance board, pursuant to section 4, shall devise and provide posters to satisfy this requirement to court officials and police station personnel, and, upon request and at the discretion of the office and board, to any other institution or organization to post and maintain in space accessible to the general public. The board shall develop such posters in a variety of languages as determined by the Massachusetts office for victim assistance. Upon request, the board will respond, to the extent possible, to any requests for additional language translations of such posters.</p> <p><i>Mass. Gen. Laws Ann. ch. 276, § 92A (Restitution in cases involving motor vehicle theft or fraudulent claims).</i> A person found guilty of violating the provisions of sections twenty-seven, twenty-eight, one hundred and eleven B and one hundred and thirty-nine of chapter two hundred and sixty-six shall, in all cases, upon conviction, in addition to any other punishment, be ordered to make restitution to any person whom the court deems appropriate for any financial loss sustained by the victim of his crime, his dependents or an insurer as a result of the commission of the crime. The term "financial loss" shall be interpreted to include but shall not be limited to, loss of earnings, out-of-pocket expenses, and replacement costs. Losses due to pain and suffering are not financial loss. Restitution shall be interpreted to include monetary reimbursement, work or service, or a combination thereof, provided to any person, organization, corporation, or governmental entity, the court determines, has suffered said damage or financial loss, or to perform such work or service for any other person,</p> |

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| | <p>organization, corporation or governmental entity as the court may determine. Restitution shall be imposed in addition to incarceration or fine, but not in lieu thereof. In an extraordinary case such as indigency, the court may determine that the interests of the victim and justice would not be served by ordering restitution. In such a case, the court shall make and enter specific written findings on the record concerning the extraordinary circumstances presented which militated against the imposition of restitution.</p> <p>The court shall, after conviction, conduct an evidentiary hearing to ascertain the extent of the damages or financial loss suffered as a result of the defendant’s crime. The court may then determine the amount and method of restitution. In so determining, the court shall consider the financial resources of the defendant and the burden restitution will impose on the defendant. The defendant’s present and future ability to make such restitution shall be considered.</p> <p><i>Mass. R. Evid. § 1114 (Restitution).</i></p> <p>(a) Nature and Extent of Remedy. Restitution is a judicially determined penalty in the form of money or services imposed against the defendant in a criminal case or a juvenile in a delinquency case for the benefit of the victim of a crime. A judge may order restitution as a condition of probation provided that the judge finds, or the parties, in consultation with the probation department, agree, that (1) the victim has suffered economic loss that is causally related to the defendant’s criminal conduct, (2) the award does not exceed the victim’s economic loss, and (3) the defendant has the ability to pay the money or perform the services.</p> <p>(b) Procedural Requirements. The defendant has the right to counsel and the right to be heard at a restitution hearing. Cross-examination of the victim is limited to the issue of restitution and does not extend to matters concerning guilt or innocence. Hearsay is admissible, but an award of restitution cannot rest entirely on unsubstantiated and unreliable hearsay. The Commonwealth has the burden of proving both a causal connection between the crime and the victim’s economic loss and the amount of the loss by a preponderance of the evidence.</p> <p>(c) Judicial Determination. The amount of restitution ordered by the court must be based on evidence presented to the court or on a stipulation by the parties. The judge must determine (1) the amount of actual economic loss proved, (2) the appropriate length of the probation period, and (3) the defendant’s maximum monthly ability to pay. The defendant bears the burden of proving an inability to pay.</p> |
| Michigan | <p><i>Mich. Const. art. 1, § 24 (Rights of crime victims; enforcement; assessment against convicted defendants).</i></p> <p>Sec. 24. (1) Crime victims, as defined by law, shall have the following rights, as provided by law:</p> |

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| | <p>The right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process.</p> <p>The right to timely disposition of the case following arrest of the accused.</p> <p>The right to be reasonably protected from the accused throughout the criminal justice process.</p> <p>The right to notification of court proceedings.</p> <p>The right to attend trial and all other court proceedings the accused has the right to attend.</p> <p>The right to confer with the prosecution.</p> <p>The right to make a statement to the court at sentencing.</p> <p>The right to restitution.</p> <p>The right to information about the conviction, sentence, imprisonment, and release of the accused.</p> <p>(2) The legislature may provide by law for the enforcement of this section.</p> <p>(3) The legislature may provide for an assessment against convicted defendants to pay for crime victims' rights.</p> <p><i>Mich. Comp. Laws § 769.1a (Order of restitution; authority of court; form; amount; payment; modification; duration; lien; enforcement).</i></p> <p>Sec. 1a. (1) As used in this section:</p> <p>(a) "Crime victim services commission" means that term as described in section 2 of 1976 PA 223, MCL 18.352.</p> <p>(b) "Victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a felony, misdemeanor, or ordinance violation. For purposes of subsections (2), (3), (6), (8), (9), and (13), victim includes a sole proprietorship, partnership, corporation, association, governmental entity, or any other legal entity that suffers direct physical or financial harm as a result of a felony, misdemeanor, or ordinance violation.</p> <p>(2) Except as provided in subsection (8), when sentencing a defendant convicted of a felony, misdemeanor, or ordinance violation, the court shall order, in addition to or in lieu of any other penalty authorized by law or in addition to any other penalty required by law, that the defendant make full restitution to any victim of the defendant's course of conduct that gives rise to the conviction or to the victim's estate.</p> <p>(3) If a felony, misdemeanor, or ordinance violation results in damage to or loss or destruction of property of a victim of the felony, misdemeanor, or ordinance violation or results in the seizure or impoundment of property of a victim of the felony, misdemeanor, or ordinance violation, the order of restitution may require that the defendant do 1 or more of the following, as applicable:</p> <p>(a) Return the property to the owner of the property or to a person designated by the owner.</p> |

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| | <p>(b) If return of the property under subdivision (a) is impossible, impractical, or inadequate, pay an amount equal to the greater of subparagraph (i) or (ii), less the value, determined as of the date the property is returned, of that property or any part of the property that is returned:</p> <p>(i) The fair market value of the property on the date of the damage, loss, or destruction. However, if the fair market value of the property cannot be determined or is impractical to ascertain, then the replacement value of the property shall be utilized in lieu of the fair market value.</p> <p>(ii) The fair market value of the property on the date of sentencing. However, if the fair market value of the property cannot be determined or is impractical to ascertain, then the replacement value of the property shall be utilized in lieu of the fair market value.</p> <p>(c) Pay the cost of the seizure or impoundment, or both.</p> <p>(4) If a felony, misdemeanor, or ordinance violation results in physical or psychological injury to a victim, the order of restitution may require that the defendant do 1 or more of the following, as applicable:</p> <p>(a) Pay an amount equal to the cost of actual medical and related professional services and devices relating to physical and psychological care.</p> <p>(b) Pay an amount equal to the cost of actual physical and occupational therapy and rehabilitation.</p> <p>(c) Reimburse the victim or the victim's estate for after-tax income loss suffered by the victim as a result of the felony, misdemeanor, or ordinance violation.</p> <p>(d) Pay an amount equal to the cost of psychological and medical treatment for members of the victim's family that has been incurred as a result of the felony, misdemeanor, or ordinance violation.</p> <p>(e) Pay an amount equal to the cost of actual homemaking and child care expenses incurred as a result of the felony, misdemeanor, or ordinance violation.</p> <p>(5) If a felony, misdemeanor, or ordinance violation resulting in bodily injury also results in the death of a victim, the order of restitution may require that the defendant pay an amount equal to the cost of actual funeral and related services.</p> <p>(6) If the victim or the victim's estate consents, the order of restitution may require that the defendant make restitution in services in lieu of money.</p> <p>(7) If the victim is deceased, the court shall order that the restitution be made to the victim's estate.</p> <p>(8) The court shall order restitution to the crime victim services commission or to any individuals, partnerships, corporations, associations, governmental entities, or other legal entities that have compensated the victim or the victim's estate for a loss incurred by the victim to the extent of the compensation paid for that loss. The court shall also order restitution for the costs of services provided to persons or entities that have provided services to the victim as a result of the felony, misdemeanor, or ordinance violation. Services that are subject to restitution</p> |

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| | <p>under this subsection include, but are not limited to, shelter, food, clothing, and transportation. However, an order of restitution shall require that all restitution to a victim or a victim's estate under the order be made before any restitution to any other person or entity under that order is made. The court shall not order restitution to be paid to a victim or victim's estate if the victim or victim's estate has received or is to receive compensation for that loss, and the court shall state on the record with specificity the reasons for its action. If an entity entitled to restitution under this subsection for compensating the victim or the victim's estate cannot or refuses to be reimbursed for that compensation, the restitution paid for that entity shall be deposited by the state treasurer in the crime victim's rights fund created under section 4 of 1989 PA 196, MCL 780.904, or its successor fund.</p> <p>(9) Any amount paid to a victim or a victim's estate under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim or the victim's estate in any federal or state civil proceeding and shall reduce the amount payable to a victim or a victim's estate by an award from the crime victim services commission made after an order of restitution under this section.</p> <p>(10) If not otherwise provided by the court under this subsection, restitution shall be made immediately. However, the court may require that the defendant make restitution under this section within a specified period or in specified installments.</p> <p>(11) If the defendant is placed on probation or paroled or the court imposes a conditional sentence under section 3 of this chapter,¹ any restitution ordered under this section shall be a condition of that probation, parole, or sentence. The court may revoke probation or impose imprisonment under the conditional sentence and the parole board may revoke parole if the defendant fails to comply with the order and if the defendant has not made a good faith effort to comply with the order. In determining whether to revoke probation or parole or impose imprisonment, the court or parole board shall consider the defendant's employment status, earning ability, and financial resources, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.</p> <p>(12) A defendant who is required to pay restitution and who is not in willful default of the payment of the restitution may at any time petition the sentencing judge or his or her successor to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the defendant or his or her immediate family, the court may modify the method of payment.</p> <p>(13) An order of restitution entered under this section remains effective until it is satisfied in full. An order of restitution is a judgment and lien against all property of the defendant for the amount specified in the order of restitution. The lien may be recorded as provided by law. An order of restitution may be enforced by the</p> |

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| | <p>prosecuting attorney, a victim, a victim’s estate, or any other person or entity named in the order to receive the restitution in the same manner as a judgment in a civil action or a lien.</p> <p>(14) Notwithstanding any other provision of this section, a defendant shall not be imprisoned, jailed, or incarcerated for a violation of probation or parole or otherwise for failure to pay restitution as ordered under this section unless the court or parole board determines that the defendant has the resources to pay the ordered restitution and has not made a good faith effort to do so.</p> <p>(15) In each case in which payment of restitution is ordered as a condition of probation, the probation officer assigned to the case shall review the case not less than twice yearly to ensure that restitution is being paid as ordered. The final review shall be conducted not less than 60 days before the probationary period expires. If the probation officer determines that restitution is not being paid as ordered, the probation officer shall file a written report of the violation with the court on a form prescribed by the state court administrative office. The report shall include a statement of the amount of the arrearage and any reasons for the arrearage known by the probation officer. The probation officer shall immediately provide a copy of the report to the prosecuting attorney. If a motion is filed or other proceedings are initiated to enforce payment of restitution and the court determines that restitution is not being paid or has not been paid as ordered by the court, the court shall promptly take action necessary to compel compliance.</p> <p>(16) If a defendant who is ordered to pay restitution under this section is remanded to the jurisdiction of the department of corrections, the court shall provide a copy of the order of restitution to the department of corrections when the defendant is ordered remanded to the department’s jurisdiction.</p> <p><i>Mich. Comp. Laws § 780.766 (Restitution; order; condition of probation, parole or sentence; revocation of probation or parole; petition to modify payment method; lien; enforcement; failure to pay restitution; payment by parent of juvenile; review; report or petition; compliance; copy of order to department of corrections; disposition of unclaimed restitution; amendment of order; effect of bankruptcy; minor as victim).</i></p> <p>Sec. 16. (1) As used in this section only, “victim” means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime. As used in subsections (2), (3), (6), (8), (9), and (13) only, victim includes a sole proprietorship, partnership, corporation, association, governmental entity, or any other legal entity that suffers direct physical or financial harm as a result of a crime.</p> <p>(2) Except as provided in subsection (8), when sentencing a defendant convicted of a crime, the court shall order, in addition to or in lieu of any other penalty authorized by law or in addition to any other penalty required by law, that the defendant make full restitution to any victim of the defendant’s course of conduct that</p> |

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| | <p>gives rise to the conviction or to the victim’s estate. For an offense that is resolved by assignment of the defendant to youthful trainee status, by a delayed sentence or deferred judgment of guilt, or in another way that is not an acquittal or unconditional dismissal, the court shall order the restitution required under this section.</p> <p>(3) If a crime results in damage to or loss or destruction of property of a victim of the crime or results in the seizure or impoundment of property of a victim of the crime, the order of restitution shall require that the defendant do 1 or more of the following, as applicable:</p> <ul style="list-style-type: none"> (a) Return the property to the owner of the property or to a person designated by the owner. (b) If return of the property under subdivision (a) is impossible, impractical, or inadequate, pay an amount equal to the greater of subparagraph (i) or (ii), less the value, determined as of the date the property is returned, of that property or any part of the property that is returned: <ul style="list-style-type: none"> (i) The fair market value of the property on the date of the damage, loss, or destruction. However, if the fair market value of the property cannot be determined or is impractical to ascertain, then the replacement value of the property shall be utilized in lieu of the fair market value. (ii) The fair market value of the property on the date of sentencing. However, if the fair market value of the property cannot be determined or is impractical to ascertain, then the replacement value of the property shall be utilized in lieu of the fair market value. (c) Pay the costs of the seizure or impoundment, or both. <p>(4) If a crime results in physical or psychological injury to a victim, the order of restitution shall require that the defendant do 1 or more of the following, as applicable:</p> <ul style="list-style-type: none"> (a) Pay an amount equal to the reasonably determined cost of medical and related professional services and devices actually incurred and reasonably expected to be incurred relating to physical and psychological care. (b) Pay an amount equal to the reasonably determined cost of physical and occupational therapy and rehabilitation actually incurred and reasonably expected to be incurred. (c) Reimburse the victim or the victim’s estate for after-tax income loss suffered by the victim as a result of the crime. (d) Pay an amount equal to the reasonably determined cost of psychological and medical treatment for members of the victim’s family actually incurred and reasonably expected to be incurred as a result of the crime. (e) Pay an amount equal to the reasonably determined costs of homemaking and child care expenses actually incurred and reasonably expected to be incurred as a result of the crime or, if homemaking or child care is provided without compensation by a relative, friend, or any other person, an amount equal to the costs that |

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| | <p>would reasonably be incurred as a result of the crime for that homemaking and child care, based on the rates in the area for comparable services.</p> <p>(f) Pay an amount equal to the cost of actual funeral and related services.</p> <p>(g) If the deceased victim could be claimed as a dependent by his or her parent or guardian on the parent’s or guardian’s federal, state, or local income tax returns, pay an amount equal to the loss of the tax deduction or tax credit. The amount of reimbursement shall be estimated for each year the victim could reasonably be claimed as a dependent.</p> <p>(h) Pay an amount equal to income actually lost by the spouse, parent, sibling, child, or grandparent of the victim because the family member left his or her employment, temporarily or permanently, to care for the victim because of the injury.</p> <p>(5) If a crime resulting in bodily injury also results in the death of a victim or serious impairment of a body function of a victim, the court may order up to 3 times the amount of restitution otherwise allowed under this section. As used in this subsection, “serious impairment of a body function of a victim” includes, but is not limited to, 1 or more of the following:</p> <p>(a) Loss of a limb or use of a limb.</p> <p>(b) Loss of a hand or foot or use of a hand or foot.</p> <p>(c) Loss of an eye or use of an eye or ear.</p> <p>(d) Loss or substantial impairment of a bodily function.</p> <p>(e) Serious visible disfigurement.</p> <p>(f) A comatose state that lasts for more than 3 days.</p> <p>(g) Measurable brain damage or mental impairment.</p> <p>(h) A skull fracture or other serious bone fracture.</p> <p>(i) Subdural hemorrhage or subdural hematoma.</p> <p>(j) Loss of a body organ.</p> <p>(6) If the victim or victim’s estate consents, the order of restitution may require that the defendant make restitution in services in lieu of money.</p> <p>(7) If the victim is deceased or dies, the court shall order that the restitution or remaining restitution be made to those entitled to inherit from the victim’s estate.</p> <p>(8) The court shall order restitution to the crime victim services commission or to any individuals, partnerships, corporations, associations, governmental entities, or other legal entities that have compensated the victim or the victim’s estate for a loss incurred by the victim to the extent of the compensation paid for that loss. The court shall also order restitution for the costs of services provided to persons or entities that have provided services to</p> |

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| | <p>the victim as a result of the crime. Services that are subject to restitution under this subsection include, but are not limited to, shelter, food, clothing, and transportation. However, an order of restitution shall require that all restitution to a victim or victim's estate under the order be made before any restitution to any other person or entity under that order is made. The court shall not order restitution to be paid to a victim or victim's estate if the victim or victim's estate has received or is to receive compensation for that loss, and the court shall state on the record with specificity the reasons for its action.</p> <p>(9) Any amount paid to a victim or victim's estate under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim or the victim's estate in any federal or state civil proceeding and shall reduce the amount payable to a victim or a victim's estate by an award from the crime victim services commission made after an order of restitution under this section.</p> <p>(10) If not otherwise provided by the court under this subsection, restitution shall be made immediately. However, the court may require that the defendant make restitution under this section within a specified period or in specified installments.</p> <p>(11) If the defendant is placed on probation or paroled or the court imposes a conditional sentence as provided in section 3 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.3, any restitution ordered under this section shall be a condition of that probation, parole, or sentence. The court may revoke probation or impose imprisonment under the conditional sentence and the parole board may revoke parole if the defendant fails to comply with the order and if the defendant has not made a good faith effort to comply with the order. In determining whether to revoke probation or parole or impose imprisonment, the court or parole board shall consider the defendant's employment status, earning ability, and financial resources, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.</p> <p>(12) Subject to subsection (18), a defendant who is required to pay restitution and who is not in willful default of the payment of the restitution may at any time petition the sentencing judge or his or her successor to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the defendant or his or her immediate family, and if the court also determines that modifying the method of payment will not impose a manifest hardship on the victim, the court may modify the method of payment.</p> <p>(13) An order of restitution entered under this section remains effective until it is satisfied in full. An order of restitution is a judgment and lien against all property of the defendant for the amount specified in the order of restitution. The lien may be recorded as provided by law. An order of restitution may be enforced by the prosecuting attorney, a victim, a victim's estate, or any other person or entity named in the order to receive the restitution in the same manner as a judgment in a civil action or a lien.</p> |

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| | <p>(14) Notwithstanding any other provision of this section, a defendant shall not be imprisoned, jailed, or incarcerated for a violation of probation or parole or otherwise for failure to pay restitution as ordered under this section unless the court or parole board determines that the defendant has the resources to pay the ordered restitution and has not made a good faith effort to do so.</p> <p>(15) If the court determines that a juvenile is or will be unable to pay all of the restitution ordered, after notice to the juvenile’s parent or parents and an opportunity for the parent or parents to be heard the court may order the parent or parents having supervisory responsibility for the juvenile at the time of the acts upon which an order of restitution is based to pay any portion of the restitution ordered that is outstanding. An order under this subsection does not relieve the juvenile of his or her obligation to pay restitution as ordered, but the amount owed by the juvenile shall be offset by any amount paid by his or her parent. As used in this subsection:</p> <p>(a) “Juvenile” means a person within the court’s jurisdiction under section 2d or 4 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d and 712A.4.</p> <p>(b) “Parent” does not include a foster parent.</p> <p>(16) If the court orders a parent to pay restitution under subsection (15), the court shall take into account the parent’s financial resources and the burden that the payment of restitution will impose, with due regard to any other moral or legal financial obligations the parent may have. If a parent is required to pay restitution under subsection (15), the court shall provide for payment to be made in specified installments and within a specified period of time.</p> <p>(17) A parent who has been ordered to pay restitution under subsection (15) may petition the court for a modification of the amount of restitution owed by the parent or for a cancellation of any unpaid portion of the parent’s obligation. The court shall cancel all or part of the parent’s obligation due if the court determines that payment of the amount due will impose a manifest hardship on the parent and if the court also determines that modifying the method of payment will not impose a manifest hardship on the victim.</p> <p>(18) In each case in which payment of restitution is ordered as a condition of probation, the court shall order any employed defendant to make regularly scheduled restitution payments. If the defendant misses 2 or more regularly scheduled payments, the court shall order the defendant to execute a wage assignment to pay the restitution. The probation officer assigned to the case shall review the case not less than twice yearly to ensure that restitution is being paid as ordered. If the restitution was ordered to be made within a specific period of time, the probation officer assigned to the case shall review the case at the end of the specific period of time to determine if the restitution has been paid in full. The final review shall be conducted not less than 60 days before the probationary period expires. If the probation officer determines at any review that restitution is not being paid as ordered, the probation officer shall file a written report of the violation with the court on a form</p> |

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| | <p>prescribed by the state court administrative office or shall petition the court for a probation violation. The report or petition shall include a statement of the amount of the arrearage and any reasons for the arrearage known by the probation officer. The probation officer shall immediately provide a copy of the report or petition to the prosecuting attorney. If a petition or motion is filed or other proceedings are initiated to enforce payment of restitution and the court determines that restitution is not being paid or has not been paid as ordered by the court, the court shall promptly take action necessary to compel compliance.</p> <p>(19) If a defendant who is ordered to pay restitution under this section is remanded to the jurisdiction of the department of corrections, the court shall provide a copy of the order of restitution to the department of corrections when the defendant is remanded to the department's jurisdiction.</p> <p>(20) The court shall not impose a fee on a victim, victim's estate, or prosecuting attorney for enforcing an order of restitution.</p> <p>(21) If a person or entity entitled to restitution under this section cannot be located, refuses to claim the restitution within 2 years after the date on which he or she could have claimed the restitution, or refuses to accept the restitution, the restitution to which that person or entity is entitled shall be deposited in the crime victim's rights fund created under section 4 of 1989 PA 196, MCL 780.904, or its successor fund. However, a person or entity entitled to that restitution may claim that restitution any time by applying to the court that originally ordered and collected it. The court shall notify the crime victim services commission of the application and the commission shall approve a reduction in the court's revenue transmittal to the crime victim's rights fund equal to the restitution owed to the person or entity. The court shall use the reduction to reimburse that restitution to the person or entity.</p> <p>(22) The court may amend an order of restitution entered under this section on a motion by the prosecuting attorney, the victim, or the defendant based upon new information related to the injury, damages, or loss for which the restitution was ordered.</p> <p>(23) A court that receives notice that a defendant who has an obligation to pay restitution under this section has declared bankruptcy shall forward a copy of that notice to the prosecuting attorney. The prosecuting attorney shall forward the notice to the victim at the victim's last known address.</p> <p>(24) If the victim is a minor, the order of restitution shall require the defendant to pay to a parent of the victim an amount that is determined to be reasonable for any of the following that are actually incurred or reasonably expected to be incurred by the parent as a result of the crime:</p> <ul style="list-style-type: none"> (a) Homemaking and child care expenses. (b) Income loss not ordered to be paid under subsection (4)(h). (c) Mileage. |

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| | <p>(d) Lodging or housing. (e) Meals. (f) Any other cost incurred in exercising the rights of the victim or a parent under this act.</p> <p><i>Mich. Comp. Laws § 780.766b (Conviction of human trafficking offense; restitution).</i> Sec. 16b. When sentencing a defendant convicted of an offense described in chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h, the court shall order restitution for the full amount of loss suffered by the victim. In addition to restitution ordered under section 16,1 the court may order the defendant to pay all of the following:</p> <p>(a) Lost income, calculated by whichever of the following methods results in the largest amount:</p> <p>(i) The gross amount received by the defendant from or the value to the defendant of the victim’s labor or services. (ii) The value of the victim’s labor or services as calculated under the minimum wage law of 1964, 1964 PA 154, MCL 408.381 to 408.398, or the federal minimum wage, whichever results in the largest value. (iii) Income loss as determined under section 16(4)(c).</p> <p>(b) The cost of transportation, temporary housing, and child care expenses incurred by the victim because of the offense. (c) Attorney fees and other costs and expenses incurred by the victim because of the offense, including, but not limited to, costs and expenses relating to assisting the investigation of the offense and for attendance at related court proceedings as follows:</p> <p>(i) Wages lost. (ii) Child care. (iii) Transportation. (iv) Parking. (d) Any other loss suffered by the victim as a proximate result of the offense.</p> <p><i>Mich. Comp. Laws § 780.767 (Restitution; factors for consideration; burden of proof).</i> Sec. 17. (1) In determining the amount of restitution to order under section 16,1 the court shall consider the amount of the loss sustained by any victim as a result of the offense. (2) The court may order the probation officer to obtain information pertaining to the amounts of loss described in subsection (1). The probation officer shall include the information collected in the presentence investigation report or in a separate report, as the court directs.</p> |

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| | <p>(3) The court shall disclose to both the defendant and the prosecuting attorney all portions of the presentence or other report pertaining to the matters described in subsection (1).</p> <p>(4) Any dispute as to the proper amount or type of restitution shall be resolved by the court by a preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the prosecuting attorney.</p> |
| Minnesota | <p><i>Minn. Stat. Ann. § 611A.04 (Order of restitution).</i></p> <p>Subdivision 1. Request; decision. (a) A victim of a crime has the right to receive restitution as part of the disposition of a criminal charge or juvenile delinquency proceeding against the offender if the offender is convicted or found delinquent. The court, or a person or agency designated by the court, shall request information from the victim to determine the amount of restitution owed. The court or its designee shall obtain the information from the victim in affidavit form or by other competent evidence. Information submitted relating to restitution must describe the items or elements of loss, itemize the total dollar amounts of restitution claimed, and specify the reasons justifying these amounts, if restitution is in the form of money or property. A request for restitution may include, but is not limited to, any out-of-pocket losses resulting from the crime, including medical and therapy costs, replacement of wages and services, expenses incurred to return a child who was a victim of a crime under section 609.26 to the child's parents or lawful custodian, and funeral expenses. An actual or prospective civil action involving the alleged crime shall not be used by the court as a basis to deny a victim's right to obtain court-ordered restitution under this section. In order to be considered at the sentencing or dispositional hearing, all information regarding restitution must be received by the court administrator of the appropriate court at least three business days before the sentencing or dispositional hearing. The court administrator shall provide copies of this request to the prosecutor and the offender or the offender's attorney at least 24 hours before the sentencing or dispositional hearing. The issue of restitution is reserved or the sentencing or dispositional hearing or hearing on the restitution request may be continued if the victim's affidavit or other competent evidence submitted by the victim is not received in time. At the sentencing or dispositional hearing, the court shall give the offender an opportunity to respond to specific items of restitution and their dollar amounts in accordance with the procedures established in section 611A.045, subdivision 3.</p> <p>(b) The court may amend or issue an order of restitution after the sentencing or dispositional hearing if:</p> <ol style="list-style-type: none"> (1) the offender is on probation, committed to the commissioner of corrections, or on supervised release; (2) sufficient evidence of a right to restitution has been submitted; and |

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| | <p>(3) the true extent of the victim’s loss or the loss of the Crime Victims Reparations Board was not known at the time of the sentencing or dispositional hearing, or hearing on the restitution request. If the court holds a hearing on the restitution request, the court must notify the offender, the offender’s attorney, the victim, the prosecutor, and the Crime Victims Reparations Board at least five business days before the hearing. The court’s restitution decision is governed by this section and section 611A.045.</p> <p>(c) The court shall grant or deny restitution or partial restitution and shall state on the record its reasons for its decision on restitution if information relating to restitution has been presented. If the court grants partial restitution it shall also specify the full amount of restitution that may be docketed as a civil judgment under subdivision 3. The court may not require that the victim waive or otherwise forfeit any rights or causes of action as a condition of granting restitution or partial restitution. In the case of a defendant who is on probation, the court may not refuse to enforce an order for restitution solely on the grounds that the order has been docketed as a civil judgment.</p> <p>Subd. 1a. Crime board request. The Crime Victims Reparations Board may request restitution on behalf of a victim by filing a copy of orders of the board, if any, which detail any amounts paid by the board to the victim. The board may file the payment order with the court administrator or with the person or agency the court has designated to obtain information relating to restitution. The board shall submit the payment order not less than three business days after it is issued by the board. The court administrator shall provide copies of the payment order to the prosecutor and the offender or the offender’s attorney within 48 hours of receiving it from the board or at least 24 hours before the sentencing or dispositional hearing, whichever is earlier. By operation of law, the issue of restitution is reserved if the payment order is not received at least three days before the sentencing or dispositional hearing. The filing of a payment order for reparations with the court administrator shall also serve as a request for restitution by the victim. The restitution requested by the board may be considered to be both on its own behalf and on behalf of the victim. If the board has not paid reparations to the victim or on the victim’s behalf, restitution may be made directly to the victim. If the board has paid reparations to the victim or on the victim’s behalf, the court shall order restitution payments to be made directly to the board.</p> <p>Subd. 1b. Affidavit of disclosure. An offender who has been ordered by the court to make restitution in an amount of \$500 or more shall file an affidavit of financial disclosure with the correctional agency responsible for investigating the financial resources of the offender on request of the agency. The commissioner of corrections shall prescribe what financial information the affidavit must contain.</p> <p>Subd. 2. Procedures. The offender shall make restitution payments to the court administrator of the county, municipal, or district court of the county in which the restitution is to be paid. The court administrator shall</p> |

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| | <p>disburse restitution in incremental payments and may not keep a restitution payment for longer than 30 days; except that the court administrator is not required to disburse a restitution payment that is under \$10 unless the payment would fulfill the offender’s restitution obligation. The court administrator shall keep records of the amount of restitution ordered in each case, any change made to the restitution order, and the amount of restitution actually paid by the offender. The court administrator shall forward the data collected to the state court administrator who shall compile the data and make it available to the Supreme Court and the legislature upon request.</p> <p>Subd. 3. Effect of order for restitution. An order of restitution may be enforced by any person named in the order to receive the restitution, or by the Crime Victims Reparations Board in the same manner as a judgment in a civil action. Any order for restitution in favor of a victim shall also operate as an order for restitution in favor of the Crime Victims Reparations Board, if the board has paid reparations to the victim or on the victim’s behalf. Filing fees for docketing an order of restitution as a civil judgment are waived for any victim named in the restitution order. An order of restitution shall be docketed as a civil judgment, in the name of any person named in the order and in the name of the crime victims reparations board, by the court administrator of the district court in the county in which the order of restitution was entered. The court administrator also shall notify the commissioner of revenue of the restitution debt in the manner provided in chapter 270A, the Revenue Recapture Act. A juvenile court is not required to appoint a guardian ad litem for a juvenile offender before docketing a restitution order. Interest shall accrue on the unpaid balance of the judgment as provided in section 549.09. Whether the order of restitution has been docketed or not, it is a debt that is not dischargeable in bankruptcy. A decision for or against restitution in any criminal or juvenile proceeding is not a bar to any civil action by the victim or by the state pursuant to section 611A.61 against the offender. The offender shall be given credit, in any order for judgment in favor of a victim in a civil action, for any restitution paid to the victim for the same injuries for which the judgment is awarded.</p> <p>Subd. 4. Payment of restitution. When the court orders the payment of restitution and the payment of a fine, fees, surcharges, or other financial obligations, the court administrator shall apply any payments to the restitution obligation before applying payments to the fine, fees, surcharges, or other financial obligations, unless otherwise ordered by the court.</p> <p>Subd. 5. Unclaimed restitution payments. Restitution payments held by the court for a victim that remain unclaimed by the victim for more than three years shall be deposited in the crime victims account created in section 611A.612.</p> <p>At the time the deposit is made, the court shall record the name and last known address of the victim and the amount being deposited, and shall forward the data to the Crime Victims Reparations Board.</p> |

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| | <p>Subd. 6. Estate of victim. If a victim dies before or after a request for restitution is made or an order for restitution is issued, the personal representative of the victim's estate may request or enforce an order for restitution on behalf of the victim. If a personal representative is not appointed and no application is pending, an heir of the victim may file an affidavit to request or enforce an order for restitution pursuant to this subdivision. Appointment of a personal representative does not affect the right of other victims, as defined in section 611A.01, to request an order for restitution on their behalf.</p> <p><i>Minn. Stat. Ann. § 611A.045 (Procedure for issuing order of restitution).</i></p> <p>Subdivision 1. Criteria. (a) The court, in determining whether to order restitution and the amount of the restitution, shall consider the following factors:</p> <ul style="list-style-type: none"> (1) the amount of economic loss sustained by the victim as a result of the offense; and (2) the income, resources, and obligations of the defendant. <p>(b) If there is more than one victim of a crime, the court shall give priority to victims who are not governmental entities when ordering restitution.</p> <p>Subd. 2. Presentence investigation. The presentence investigation report made pursuant to section 609.115, subdivision 1, must contain information pertaining to the factors set forth in subdivision 1.</p> <p>Subd. 2a. Payment structure. The court shall include in every restitution order a provision requiring a payment schedule or structure. The court may assign the responsibility for developing the schedule or structure to the court administrator, a probation officer, or another designated person. The person who develops the payment schedule or structure shall consider relevant information supplied by the defendant. If the defendant is placed on supervised probation, the payment schedule or structure must be incorporated into the probation agreement and must provide that the obligation to pay restitution continues throughout the term of probation. If the defendant is not placed on probation, the structure or schedule must provide that the obligation to pay restitution begins no later than 60 days after the restitution order is issued.</p> <p>Subd. 3. Dispute; evidentiary burden; procedures. (a) At the sentencing, dispositional hearing, or hearing on the restitution request, the offender shall have the burden to produce evidence if the offender intends to challenge the amount of restitution or specific items of restitution or their dollar amounts. This burden of production must include a detailed sworn affidavit of the offender setting forth all challenges to the restitution or items of restitution, and specifying all reasons justifying dollar amounts of restitution which differ from the amounts requested by the victim or victims. The affidavit must be served on the prosecuting attorney and the court at least five business days before the hearing. A dispute as to the proper amount or type of restitution must be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of loss</p> |

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| | <p>sustained by a victim as a result of the offense and the appropriateness of a particular type of restitution is on the prosecution.</p> <p>(b) An offender may challenge restitution, but must do so by requesting a hearing within 30 days of receiving written notification of the amount of restitution requested, or within 30 days of sentencing, whichever is later. The hearing request must be made in writing and filed with the court administrator. A defendant may not challenge restitution after the 30-day time period has passed.</p> |
| Mississippi | <p><i>Miss. Code Ann. § 99-36-5 (Victims' rights).</i></p> <p>(1) A victim, guardian of a victim, or close relative of a deceased victim is entitled to the following rights within the criminal justice system:</p> <p>(a) The right to receive from law enforcement agencies adequate protection from harm and threats of harm arising from cooperation with prosecution efforts, including, but not limited to, the filing of criminal charges where the perpetrator is known;</p> <p>(b) The right to have a circuit or county court judge take the safety of the victim or his family into consideration as an element in fixing the amount of bail for the accused;</p> <p>(c) The right to be informed of relevant court proceedings and to be informed if those court proceedings have been canceled or rescheduled prior to the event;</p> <p>(d) The right to be informed, when requested, by the district attorney's office concerning the general procedures in the criminal justice system, including general procedures in guilty plea negotiations and arrangements;</p> <p>(e) The right to provide a victim impact statement prior to any sentencing of the offender; and</p> <p>(f) The right to receive information regarding compensation to victims of crime as may be provided by law.</p> <p>(2) A victim, guardian of a victim or close relative of a deceased victim has the right to be present at all public court proceedings related to the prosecution of the accused, consistent with the rules of evidence.</p> <p>(3) A judge, attorney for the state, peace officer or law enforcement agency is not liable for a failure or inability to provide a right enumerated in this chapter. The failure or inability of any person to provide a right or service enumerated in this chapter may not be used by a defendant in a criminal case as a ground for appeal. A victim, guardian of a victim, or close relative of a deceased victim does not have standing to participate as a party in a criminal proceeding or to contest the disposition of any charge.</p> <p><i>Miss. Code Ann. § 99-37-1 (Definitions).</i></p> |

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| | <p>As used in this chapter:</p> <p>(a) “Criminal activities” shall mean any offense with respect to which the defendant is convicted or any other criminal conduct admitted by the defendant.</p> <p>(b) “Pecuniary damages” shall mean all special damages, but not general damages, which a person could recover against the defendant in a civil action arising out of the facts or events constituting the defendant’s criminal activities and shall include, but not be limited to, the money equivalent of property taken, destroyed, broken or otherwise harmed, and losses such as medical expenses.</p> <p>(c) “Restitution” shall mean full, partial or nominal payment of pecuniary damages to a victim.</p> <p>(d) “Victim” shall mean any person whom the court determines has suffered pecuniary damages as a result of the defendant’s criminal activities. “Victim” shall not include any coparticipant in the defendant’s criminal activities, or any person knowingly participating in a criminal act at the time he became a victim.</p> <p><i>Miss. Code Ann. § 99-37-3 (Imposition and amount).</i></p> <p>(1) When a person is convicted of criminal activities which have resulted in pecuniary damages, in addition to any other sentence it may impose, the court may order that the defendant make restitution to the victim; provided, however, that the justice court shall not order restitution in an amount exceeding Five Thousand Dollars (\$5,000.00).</p> <p>(2) In determining whether to order restitution which may be complete, partial or nominal, the court shall take into account:</p> <p>(a) The financial resources of the defendant and the burden that payment of restitution will impose, with due regard to the other obligations of the defendant;</p> <p>(b) The ability of the defendant to pay restitution on an installment basis or on other conditions to be fixed by the court; and</p> <p>(c) The rehabilitative effect on the defendant of the payment of restitution and the method of payment.</p> <p>(3) If the defendant objects to the imposition, amount or distribution of the restitution, the court shall, at the time of sentencing, allow him to be heard on such issue.</p> <p>(4) If the court determines that restitution is inappropriate or undesirable, an order reciting such finding shall be entered, which should also state the underlying circumstances for such determination.</p> |
| Missouri | <p><i>Mo. Const. art. 1, § 32 (Crime victims’ rights).</i></p> <p>1. Crime victims, as defined by law, shall have the following rights, as defined by law:</p> |

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| | <p>(1) The right to be present at all criminal justice proceedings at which the defendant has such right, including juvenile proceedings where the offense would have been a felony if committed by an adult;</p> <p>(2) Upon request of the victim, the right to be informed of and heard at guilty pleas, bail hearings, sentencings, probation revocation hearings, and parole hearings, unless in the determination of the court the interests of justice require otherwise;</p> <p>(3) The right to be informed of trials and preliminary hearings;</p> <p>(4) The right to restitution, which shall be enforceable in the same manner as any other civil cause of action, or as otherwise provided by law;</p> <p>(5) The right to the speedy disposition and appellate review of their cases, provided that nothing in this subdivision shall prevent the defendant from having sufficient time to prepare his defense;</p> <p>(6) The right to reasonable protection from the defendant or any person acting on behalf of the defendant;</p> <p>(7) The right to information concerning the escape of an accused from custody or confinement, the defendant's release and scheduling of the defendant's release from incarceration; and</p> <p>(8) The right to information about how the criminal justice system works, the rights and the availability of services, and upon request of the victim the right to information about the crime.</p> <p>2. Notwithstanding section 20 of article I of this Constitution, upon a showing that the defendant poses a danger to a crime victim, the community, or any other person, the court may deny bail or may impose special conditions which the defendant and surety must guarantee.</p> <p>3. Nothing in this section shall be construed as creating a cause of action for money damages against the state, a county, a municipality, or any of the agencies, instrumentalities, or employees provided that the General Assembly may, by statutory enactment, reverse, modify, or supercede any judicial decision or rule arising from any cause of action brought pursuant to this section.</p> <p>4. Nothing in this section shall be construed to authorize a court to set aside or to void a finding of guilt, or an acceptance of a plea of guilty in any criminal case.</p> <p>5. The general assembly shall have power to enforce this section by appropriate legislation.</p> <p><i>Mo. Ann. Stat. § 557.026 (Presentence investigation and sentencing assessment report – inquiry of victim, when).</i></p> <p>1. When a probation officer is available to any court, such probation officer shall, unless waived by the defendant, conduct a presentence investigation in all felony cases and make a sentencing assessment report to the court before any authorized disposition is made under section 557.011. In all class A misdemeanor cases a probation officer shall, if directed by the court, conduct a presentence investigation and make a sentencing</p> |

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| | <p>assessment report to the court before any authorized disposition is made under section 557.011. The report shall not be submitted to the court or its contents disclosed to anyone until the defendant has been found guilty.</p> <p>2. The sentencing assessment report shall be prepared, presented and utilized as provided by rule of court, except that no court shall prevent the defendant or the attorney for the defendant from having access to the complete sentencing assessment report and recommendations before any authorized disposition is made under section 557.011.</p> <p>3. The defendant shall not be obligated to make any statement to a probation officer in connection with any sentencing assessment report.</p> <p>4. When the jury enters a finding of guilt and assesses punishment, the probation officer shall, as part of the presentence investigation, inquire of the victim of the offense for which such punishment was assessed of the facts of the offense and any personal injury or financial loss incurred by the victim. If the victim is dead or otherwise unable to make a statement, the probation officer shall attempt to obtain such information from a member of the immediate family of the victim.</p> <p><i>Mo. Ann. Stat. § 559.100 (Circuit courts, power to place on probation or parole – revocation – conditions – restitution).</i></p> <p>1. The circuit courts of this state shall have power, herein provided, to place on probation or to parole persons convicted of any offense over which they have jurisdiction, except as otherwise provided in section 559.115, section 565.020, sections 566.030, 566.060, 566.067, 566.125, 566.151, and 566.210, section 571.015, section 579.170, and subsection 3 of section 589.425.</p> <p>2. The circuit court shall have the power to revoke the probation or parole previously granted under section 559.036 and commit the person to the department of corrections. The circuit court shall determine any conditions of probation or parole for the defendant that it deems necessary to ensure the successful completion of the probation or parole term, including the extension of any term of supervision for any person while on probation or parole. The circuit court may require that the defendant pay restitution for his or her offense. The probation or parole may be revoked under section 559.036 for failure to pay restitution or for failure to conform his or her behavior to the conditions imposed by the circuit court. The circuit court may, in its discretion, credit any period of probation or parole as time served on a sentence.</p> <p>3. Restitution, whether court-ordered as provided in subsection 2 of this section or agreed to by the parties, or as enforced under section 558.019, shall be paid through the office of the prosecuting attorney or circuit attorney. Nothing in this section shall prohibit the prosecuting attorney or circuit attorney from contracting with or utilizing another entity for the collection of restitution and costs under this section. When ordered by the</p> |

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| | <p>court, interest shall be allowed under subsection 2 of section 408.040. In addition to all other costs and fees allowed by law, each prosecuting attorney or circuit attorney who takes any action to collect restitution shall collect from the person paying restitution an administrative handling cost. The cost shall be twenty-five dollars for restitution of less than one hundred dollars and fifty dollars for restitution of at least one hundred dollars but less than two hundred fifty dollars. For restitution of two hundred fifty dollars or more an additional fee of ten percent of the total restitution shall be assessed, with a maximum fee for administrative handling costs not to exceed seventy-five dollars total. Notwithstanding the provisions of sections 50.525 to 50.745, the costs provided for in this subsection shall be deposited by the county treasurer into a separate interest-bearing fund to be expended by the prosecuting attorney or circuit attorney. This fund shall be known as the “Administrative Handling Cost Fund”, and it shall be the fund for deposits under this section and under section 570.120. The funds shall be expended, upon warrants issued by the prosecuting attorney or circuit attorney directing the treasurer to issue checks thereon, only for purposes related to that authorized by subsection 4 of this section.</p> <p>4. The moneys deposited in the fund may be used by the prosecuting attorney or circuit attorney for office supplies, postage, books, training, office equipment, capital outlay, expenses of trial and witness preparation, additional employees for the staff of the prosecuting or circuit attorney, employees’ salaries, and for other lawful expenses incurred by the prosecuting or circuit attorney in the operation of that office.</p> <p>5. This fund may be audited by the state auditor’s office or the appropriate auditing agency.</p> <p>6. If the moneys collected and deposited into this fund are not totally expended annually, then the unexpended balance shall remain in the fund and the balance shall be kept in the fund to accumulate from year to year.</p> <p>7. Nothing in this section shall be construed to prohibit a crime victim from pursuing other lawful remedies against a defendant for restitution.</p> <p><i>Mo. Ann. Stat. § 559.105 (Restitution may be ordered for tampering and stealing offenses – limitation on release from probation – payment).</i></p> <p>1. Any person who has been found guilty of or has pled guilty to an offense may be ordered by the court to make restitution to the victim for the victim’s losses due to such offense. Restitution pursuant to this section shall include, but not be limited to a victim’s reasonable expenses to participate in the prosecution of the crime.</p> <p>2. No person ordered by the court to pay restitution pursuant to this section shall be released from probation until such restitution is complete. If full restitution is not made within the original term of probation, the court shall order the maximum term of probation allowed for such offense.</p> <p>3. Any person eligible to be released on parole shall be required, as a condition of parole, to make restitution pursuant to this section. The board of probation and parole shall not release any person from any term of parole</p> |

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| | <p>for such offense until the person has completed such restitution, or until the maximum term of parole for such offense has been served.</p> <p>4. The court may set an amount of restitution to be paid by the defendant. Said amount may be taken from the inmate’s account at the department of corrections while the defendant is incarcerated. Upon conditional release or parole, if any amount of such court-ordered restitution is unpaid, the payment of the unpaid balance may be collected as a condition of conditional release or parole by the prosecuting attorney or circuit attorney under section 559.100. The prosecuting attorney or circuit attorney may refer any failure to make such restitution as a condition of conditional release or parole to the parole board for enforcement.</p> <p><i>Mo. Ann. Stat. § 559.021 (Conditions of probation – compensation of victims – free work, public or charitable – defendant not an employee for workers’ compensation purposes – payment to county restitution fund, when).</i></p> <p>1. The conditions of probation shall be such as the court in its discretion deems reasonably necessary to ensure that the defendant will not again violate the law. When a defendant is placed on probation he or she shall be given a certificate explicitly stating the conditions on which he or she is being released.</p> <p>2. In addition to such other authority as exists to order conditions of probation, the court may order such conditions as the court believes will serve to compensate the victim, any dependent of the victim, any statutorily created fund for costs incurred as a result of the offender’s actions, or society. Such conditions may include restorative justice methods pursuant to section 217.777, or any other method that the court finds just or appropriate including, but not limited to:</p> <ol style="list-style-type: none"> (1) Restitution to the victim or any dependent of the victim, or statutorily created fund for costs incurred as a result of the offender’s actions in an amount to be determined by the judge; (2) The performance of a designated amount of free work for a public or charitable purpose, or purposes, as determined by the judge; (3) Offender treatment programs; (4) Work release programs in local facilities; and (5) Community-based residential and nonresidential programs. <p>3. The defendant may refuse probation conditioned on the performance of free work. If he or she does so, the court shall decide the extent or duration of sentence or other disposition to be imposed and render judgment accordingly. Any county, city, person, organization, or agency, or employee of a county, city, organization or agency charged with the supervision of such free work or who benefits from its performance shall be immune from any suit by the defendant or any person deriving a cause of action from him or her if such cause of action arises from such supervision of performance, except for an intentional tort or gross negligence. The services</p> |

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| | <p>performed by the defendant shall not be deemed employment within the meaning of the provisions of chapter 288. A defendant performing services pursuant to this section shall not be deemed an employee within the meaning of the provisions of chapter 287.</p> <p>4. In addition to such other authority as exists to order conditions of probation, in the case of a finding of guilt, the court may order the assessment and payment of a designated amount of restitution to a county law enforcement restitution fund established by the county commission pursuant to section 50.565. Such contribution shall not exceed three hundred dollars for any charged offense. Any restitution moneys deposited into the county law enforcement restitution fund pursuant to this section shall only be expended pursuant to the provisions of section 50.565.</p> <p>5. A judge may order payment to a restitution fund only if such fund had been created by ordinance or resolution of a county of the state of Missouri prior to sentencing. A judge shall not have any direct supervisory authority or administrative control over any fund to which the judge is ordering a defendant to make payment.</p> <p>6. A defendant who fails to make a payment to a county law enforcement restitution fund may not have his or her probation revoked solely for failing to make such payment unless the judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence that the defendant either willfully refused to make the payment or that the defendant willfully, intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.</p> <p>7. The court may modify or enlarge the conditions of probation at any time prior to the expiration or termination of the probation term.</p> <p><i>Mo. Ann. Stat. § 566.218 (Restitution required for certain offenders).</i> Notwithstanding sections 557.011, 558.019, and 559.021, a person found guilty of violating any provisions of section 566.203, 566.206, 566.209, 566.210, 566.211, 566.212, 566.213, or 566.215 shall be ordered by the sentencing court to pay restitution to the victim of the offense regardless of whether the defendant is sentenced to a term of imprisonment or probation. The minimum restitution ordered by the court shall be in the amount determined by the court necessary to compensate the victim for the value of the victim’s labor and/or for the mental and physical rehabilitation of the victim and any child of the victim.</p> <p><i>Mo. Ann. Stat. § 570.223 (Identity theft – penalty – restitution – other civil remedies available – exempted activities).</i></p> |

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| | <ol style="list-style-type: none"> 1. A person commits the offense of identity theft if he or she knowingly and with the intent to deceive or defraud obtains, possesses, transfers, uses, or attempts to obtain, transfer or use, one or more means of identification not lawfully issued for his or her use. 2. The offense of identity theft is a class B misdemeanor unless the identity theft results in the theft or appropriation of credit, money, goods, services, or other property: <ol style="list-style-type: none"> (1) Not exceeding seven hundred fifty dollars in value, in which case it is a class A misdemeanor; (2) Exceeding seven hundred fifty dollars and not exceeding twenty-five thousand dollars in value, in which case it is a class D felony; (3) Exceeding twenty-five thousand dollars and not exceeding seventy-five thousand dollars in value, in which case it is a class C felony; (4) Exceeding seventy-five thousand dollars in value, in which case it is a class B felony. 3. In addition to the provisions of subsection 2 of this section, the court may order that the defendant make restitution to any victim of the offense. Restitution may include payment for any costs, including attorney fees, incurred by the victim: <ol style="list-style-type: none"> (1) In clearing the credit history or credit rating of the victim; and (2) In connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising from the actions of the defendant. 4. In addition to the criminal penalties in subsections 2 and 3 of this section, any person who commits an act made unlawful by subsection 1 of this section shall be liable to the person to whom the identifying information belonged for civil damages of up to five thousand dollars for each incident, or three times the amount of actual damages, whichever amount is greater. A person damaged as set forth in subsection 1 of this section may also institute a civil action to enjoin and restrain future acts that would constitute a violation of subsection 1 of this section. The court, in an action brought under this subsection, may award reasonable attorneys' fees to the plaintiff. 5. If the identifying information of a deceased person is used in a manner made unlawful by subsection 1 of this section, the deceased person's estate shall have the right to recover damages pursuant to subsection 4 of this section. 6. Civil actions under this section must be brought within five years from the date on which the identity of the wrongdoer was discovered or reasonably should have been discovered. 7. Civil action pursuant to this section does not depend on whether a criminal prosecution has been or will be instituted for the acts that are the subject of the civil action. The rights and remedies provided by this section are in addition to any other rights and remedies provided by law. |

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| | <p>8. This section and section 570.224 shall not apply to the following activities:</p> <p>(1) A person obtains the identity of another person to misrepresent his or her age for the sole purpose of obtaining alcoholic beverages, tobacco, going to a gaming establishment, or another privilege denied to minors;</p> <p>(2) A person obtains means of identification or information in the course of a bona fide consumer or commercial transaction;</p> <p>(3) A person exercises, in good faith, a security interest or right of offset by a creditor or financial institution;</p> <p>(4) A person complies, in good faith, with any warrant, court order, levy, garnishment, attachment, or other judicial or administrative order, decree, or directive, when any party is required to do so;</p> <p>(5) A person is otherwise authorized by law to engage in the conduct that is the subject of the prosecution.</p> <p>9. Notwithstanding the provisions of subdivision (1) or (2) of subsection 2 of this section, every person who has previously been found guilty of identity theft or attempted identity theft, and who subsequently is found guilty of identity theft or attempted identity theft of credit, money, goods, services, or other property not exceeding seven hundred fifty dollars in value is guilty of a class E felony and shall be punished accordingly.</p> <p>10. If credit, property, or services are obtained by two or more acts from the same person or location, or from different persons by two or more acts which occur in approximately the same location or time period so that the identity thefts are attributable to a single scheme, plan, or conspiracy, the acts may be considered as a single identity theft and the value may be the total value of all credit, property, and services involved.</p> <p><i>Mo. Ann. Stat. § 595.209 (Rights of victims and witnesses – written notification, requirements).</i></p> <p>1. The following rights shall automatically be afforded to victims of dangerous felonies, as defined in section 556.061, victims of murder in the first degree, as defined in section 565.020, victims of voluntary manslaughter, as defined in section 565.023, victims of any offense under chapter 566, victims of an attempt to commit one of the preceding crimes, as defined in section 562.0121, and victims of domestic assault, as defined in sections 565.072 to 565.076; and, upon written request, the following rights shall be afforded to victims of all other crimes and witnesses of crimes:</p> <p>... (11) For victims, to be informed by the prosecuting attorney of the right to restitution which shall be enforceable in the same manner as any other cause of action as otherwise provided by law;</p> <p>...</p> <p>2. The provisions of subsection 1 of this section shall not be construed to imply any victim who is incarcerated by the department of corrections or any local law enforcement agency has a right to be released to attend any hearing or that the department of corrections or the local law enforcement agency has any duty to transport such incarcerated victim to any hearing.</p> |

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| | <p>3. Those persons entitled to notice of events pursuant to the provisions of subsection 1 of this section shall provide the appropriate person or agency with their current addresses and telephone numbers or the addresses or telephone numbers at which they wish notification to be given.</p> <p>4. Notification by the appropriate person or agency utilizing the statewide automated crime victim notification system as established in section 650.310 shall constitute compliance with the victim notification requirement of this section. If notification utilizing the statewide automated crime victim notification system cannot be used, then written notification shall be sent by certified mail to the most current address provided by the victim.</p> <p>5. Victims' rights as established in Section 32 of Article I of the Missouri Constitution or the laws of this state pertaining to the rights of victims of crime shall be granted and enforced regardless of the desires of a defendant and no privileges of confidentiality shall exist in favor of the defendant to exclude victims or prevent their full participation in each and every phase of parole hearings or probation revocation hearings. The rights of the victims granted in this section are absolute and the policy of this state is that the victim's rights are paramount to the defendant's rights. The victim has an absolute right to be present at any hearing in which the defendant is present before a probation and parole hearing officer.</p> |
| <p>Montana</p> | <p><i>Mont. Code Ann. § 46-18-201 (Sentences that may be imposed).</i></p> <p>...</p> <p>(5) In addition to any other penalties imposed, if a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere and the sentencing judge finds that a victim, as defined in 46-18-243, has sustained a pecuniary loss, the sentencing judge shall, as part of the sentence, require payment of full restitution to the victim, as provided in 46-18-241 through 46-18-249, whether or not any part of the sentence is deferred or suspended.</p> <p>....</p> <p><i>Mont. Code Ann. § 46-18-241 (Condition of restitution).</i></p> <p>(1) As provided in 46-18-201, a sentencing court shall, as part of the sentence, require an offender to make full restitution to any victim who has sustained a pecuniary loss, including a person suffering an economic loss. The duty to pay full restitution under the sentence remains with the offender or the offender's estate until full restitution is paid, whether or not the offender is under state supervision. If the offender is under state supervision, payment of restitution is a condition of any probation or parole.</p> <p>....</p> |

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| | <p><i>Mont. Code Ann. § 46-18-243 (Definitions).</i> For purposes of 46-18-241 through 46-18-249, the following definitions apply: (1) “Pecuniary loss” means: (a) all special damages, but not general damages, substantiated by evidence in the record, that a person could recover against the offender in a civil action arising out of the facts or events constituting the offender’s criminal activities, including without limitation out-of-pocket losses, such as medical expenses, loss of income, expenses reasonably incurred in obtaining ordinary and necessary services that the victim would have performed if not injured, expenses reasonably incurred in attending court proceedings related to the commission of the offense, and reasonable expenses related to funeral and burial or crematory services; (b) the full replacement cost of property taken, destroyed, harmed, or otherwise devalued as a result of the offender’s criminal conduct; (c) future medical expenses that the victim can reasonably be expected to incur as a result of the offender’s criminal conduct, including the cost of psychological counseling, therapy, and treatment; and (d) reasonable out-of-pocket expenses incurred by the victim in filing charges or in cooperating in the investigation and prosecution of the offense. </p> |
| <p>Nebraska</p> | <p><i>Neb. Rev. Stat. Ann. § 29-2280 (Restitution; order; when).</i> A sentencing court may order the defendant to make restitution for the actual physical injury or property damage or loss sustained by the victim as a direct result of the offense for which the defendant has been convicted. With the consent of the parties, the court may order restitution for the actual physical injury or property damage or loss sustained by the victim of an uncharged offense or an offense dismissed pursuant to plea negotiations. Whenever the court believes that restitution may be a proper sentence or the victim of any offense or the prosecuting attorney requests, the court shall order that the presentence investigation report include documentation regarding the nature and amount of the actual damages sustained by the victim.</p> <p><i>Neb. Rev. Stat. Ann. § 29-2281 (Restitution; determination of amount; manner of payment).</i> To determine the amount of restitution, the court may hold a hearing at the time of sentencing. The amount of restitution shall be based on the actual damages sustained by the victim and shall be supported by evidence which shall become a part of the court record. The court shall consider the defendant’s earning ability,</p> |

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| | <p>employment status, financial resources, and family or other legal obligations and shall balance such considerations against the obligation to the victim. In considering the earning ability of a defendant who is sentenced to imprisonment, the court may receive evidence of money anticipated to be earned by the defendant during incarceration. A person may not be granted or denied probation or parole either solely or primarily due to his or her financial resources or ability or inability to pay restitution. The court may order that restitution be made immediately, in specified installments, or within a specified period of time not to exceed five years after the date of judgment or defendant's final release date from imprisonment, whichever is later. Restitution payments shall be made through the clerk of the court ordering restitution. The clerk shall maintain a record of all receipts and disbursements.</p> <p><i>Neb. Rev. Stat. Ann. § 29-2282 (Property damage; bodily injury; death; relief authorized).</i> In determining restitution, if the offense results in damage, destruction, or loss of property, the court may require: (1) Return of the property to the victim, if possible; (2) payment of the reasonable value of repairing the property, including property returned by the defendant; or (3) payment of the reasonable replacement value of the property, if return or repair is impossible, impractical, or inadequate. If the offense results in bodily injury, the court may require payment of necessary medical care, including, but not limited to, physical or psychological treatment and therapy, and payment for income lost due to such bodily injury. If the offense results in the death of the victim, the court may require payment to be made to the estate of the victim for the cost of any medical care prior to death and for funeral and burial expenses.</p> |
| Nevada | <p><i>Nev. Const. art. I, § 23 (Crime Victims Rights).</i></p> <p>1. Each person who is the victim of a crime is entitled to the following rights:</p> <ul style="list-style-type: none"> (a) 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. (b) To be reasonably protected from the defendant and persons acting on behalf of the defendant. (c) To have the safety of the victim and the victim's family considered as a factor in fixing the amount of bail and release conditions for the defendant. (d) To prevent the disclosure of confidential information or records to the defendant which could be used to locate or harass the victim or the victim's family. (e) To refuse an interview or deposition request, unless under court order, and to set reasonable conditions on the conduct of any such interview to which the victim consents. |

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| | <p>(f) To reasonably confer with the prosecuting agency, upon request, regarding the case.</p> <p>(g) 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 postconviction release proceedings, and to be present at all such proceedings.</p> <p>(h) To be reasonably heard, upon request, at any public proceeding, including any delinquency proceeding, in any court involving release or sentencing, and at any parole proceeding.</p> <p>(i) To the timely disposition of the case following the arrest of the defendant.</p> <p>(j) To provide information to any public officer or employee conducting a presentence 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.</p> <p>(k) 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.</p> <p>(l) To full and timely restitution.</p> <p>(m) To the prompt return of legal property when no longer needed as evidence.</p> <p>(n) To be informed of all postconviction proceedings, to participate and 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.</p> <p>(o) To have the safety of the victim, the victim’s family and the general public considered before any parole or other postjudgment release decision is made.</p> <p>(p) To have all monetary payments, money and property collected from any person who has been ordered to make restitution be first applied to pay the amounts ordered as restitution to the victim.</p> <p>(q) To be specifically informed of the rights enumerated in this section, and to have information concerning those rights be made available to the general public.</p> <p>2. A victim has standing to assert the rights enumerated in this section in any court with jurisdiction over the case. The court shall promptly rule on a victim’s request. A defendant does not have standing to assert the rights of his or her victim. This section does not alter the powers, duties or responsibilities of a prosecuting attorney. A victim does not have the status of a party in a criminal proceeding.</p> <p>3. Except as otherwise provided in subsection 4, no person may maintain an action against this State or any public officer or employee for damages or injunctive, declaratory or other legal or equitable relief on behalf of a victim of a crime as a result of a violation of this section or any statute enacted by the Legislature pursuant thereto. No such violation authorizes setting aside a conviction.</p> |

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| | <p>4. A person may maintain an action to compel a public officer or employee to carry out any duty required by this section or any statute enacted by the Legislature pursuant thereto.</p> <p>5. The granting of these rights to victims must not be construed to deny or disparage other rights possessed by victims. A parole authority shall extend the right to be heard at a parole hearing to any person harmed by the offender.</p> <p>6. The Legislature shall by law provide any other measure necessary or useful to secure to victims of crime the benefit of the rights set forth in this section.</p> <p>7. As used in this section, “victim” means any person directly and proximately harmed by the commission of a criminal offense under any law of this State. If the victim is less than 18 years of age, incompetent, incapacitated or deceased, the term includes the legal guardian of the victim or a representative of the victim’s estate, member of the victim’s family or any other person who is appointed by the court to act on the victim’s behalf, except that the court shall not appoint the defendant as such a person.</p> <p><i>Nev. Rev. Stat. Ann. § 176.033 (Sentence of imprisonment required or permitted by statute: Definite period for misdemeanor or gross misdemeanor; minimum and maximum term for felony unless definite term required by statute; restitution; modification of sentence).</i></p> <p>1. If a sentence of imprisonment is required or permitted by statute, the court shall:</p> <p>(a) If sentencing a person who has been found guilty of a misdemeanor or a gross misdemeanor, sentence the person to imprisonment for a definite period of time within the maximum limit or the minimum and maximum limits prescribed by the applicable statute, taking due account of the gravity of the particular offense and of the character of the individual defendant.</p> <p>(b) If sentencing a person who has been found guilty of a felony, sentence the person to a minimum term and a maximum term of imprisonment, unless a definite term of imprisonment is required by statute.</p> <p>(c) If restitution is appropriate, set an amount of restitution for each victim of the offense and for expenses related to extradition in accordance with NRS 179.225.</p> <p>2. At any time after a prisoner has been released on parole and has served one-half of the period of parole, or 10 consecutive years on parole in the case of a prisoner sentenced to life imprisonment, the State Board of Parole Commissioners, upon the recommendation of the Division, may petition the court of original jurisdiction requesting a modification of sentence. The Board shall give notice of the petition and hearing thereon to the Attorney General or district attorney who had jurisdiction in the original proceedings. Upon hearing the recommendation of the State Board of Parole Commissioners and good cause appearing, the court may modify</p> |

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| | <p>the original sentence by reducing the maximum term of imprisonment but shall not make the term less than the minimum term prescribed by the applicable penal statute.</p> <p><i>Nev. Rev. Stat. Ann. § 176A.120 (Persons convicted of certain offenses against elderly required to pay restitution before court suspends sentence or grants probation; exceptions).</i></p> <ol style="list-style-type: none"> 1. Except as otherwise provided in subsection 2, the court shall not grant probation to a person whose conduct during the commission of the crime for which the person was convicted satisfies the requirements for imposing an additional term of imprisonment pursuant to paragraph (h) or (i) of subsection 1 of NRS 193.167 or subsection 2 of NRS 193.167, until the convicted person has paid to the victim of the offense at least 80 percent of the amount of restitution set by the court pursuant to NRS 176.033. 2. The court shall not deny probation to a person as provided in subsection 1 unless the court determines that the person has willfully failed to make restitution to the victim of the crime and the person has the ability to make restitution. <p><i>Nev. Rev. Stat. Ann. § 176A.430 (Restitution).</i></p> <ol style="list-style-type: none"> 1. The court shall order as a condition of probation or suspension of sentence, in appropriate circumstances, that the defendant make full or partial restitution to the person or persons named in the order, at the times and in the amounts specified in the order unless the court finds that restitution is impracticable. Such an order may require payment for medical or psychological treatment of any person whom the defendant has injured. In appropriate circumstances, the court shall include as a condition of probation or suspension of sentence that the defendant execute an assignment of wages earned while on probation or subject to the conditions of suspension of sentence to the Division for restitution. 2. All money received by the Division for restitution must be deposited with the State Treasurer for credit to the Restitution Trust Fund. 3. The Division shall make pro rata payments from the money received from the defendant to each person to whom the restitution was ordered pursuant to this section. Such a payment must be made not less than once each fiscal year. Any money received from the defendant that is remaining at the end of each fiscal year must be paid at that time in pro rata payments to each person to whom the restitution was ordered. A final pro rata payment must be made to such persons when the defendant pays the entire restitution owed. 4. All payments from the Fund must be paid as other claims against the State are paid. 5. If restitution is not required, the court shall set forth the circumstances upon which it finds restitution impracticable in its order of probation or suspension of sentence. |

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| | <p>6. Failure to comply with the terms of an order for restitution is a violation of a condition of probation or suspension of sentence unless the defendant’s failure was caused by economic hardship resulting in his or her inability to pay the amount due. The defendant is entitled to a hearing to show the existence of such a hardship.</p> <p>7. If, within 3 years after the defendant has been discharged from probation, the Division has not located the person to whom the restitution was ordered, the money paid to the Division by the defendant must be deposited with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime.</p> <p><i>Nev. Rev. Stat. Ann. § 200.466 (Power of court to order restitution for violation of NRS 200.463, 200.464, 200.465).</i></p> <p>1. In addition to any other penalty, the court may order a person convicted of a violation of any provision of NRS 200.463, 200.464 or 200.465 to pay restitution to the victim as provided in subsection 2.</p> <p>2. Restitution ordered pursuant to this section may include, without limitation:</p> <ul style="list-style-type: none"> (a) The cost of medical and psychological treatment, including, without limitation, physical and occupational therapy and rehabilitation; (b) The cost of transportation, temporary housing and child care; (c) The return of property, the cost of repairing damaged property or the full value of the property if it is destroyed or damaged beyond repair; (d) Expenses incurred by a victim in relocating away from the defendant or his or her associates, if the expenses are verified by law enforcement to be necessary for the personal safety of the victim; (e) The cost of repatriation of the victim to his or her home country, if applicable; and (f) Any and all other losses suffered by the victim as a result of the violation of any provision of NRS 200.463, 200.464 or 200.465. <p>3. The return of the victim to his or her home country or other absence of the victim from the jurisdiction does not prevent the victim from receiving restitution.</p> <p>4. As used in this section, “victim” means any person:</p> <ul style="list-style-type: none"> (a) Against whom a violation of any provision of NRS 200.463, 200.464 or 200.465 has been committed; or (b) Who is the surviving child of such a person. <p><i>Nev. Rev. Stat. Ann. § 200.469 (Power of court to order restitution for violation of NRS 200.467, 200.468 or 200.4685).</i></p> <p>1. In addition to any other penalty, the court may order a person convicted of violation of any provision of NRS 200.467, 200.468 or 200.4685 to pay restitution to the victim as provided in subsection 2.</p> |

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| | <p>2. Restitution ordered pursuant to this section may include, without limitation:</p> <ul style="list-style-type: none"> (a) The cost of medical and psychological treatment, including, without limitation, physical and occupational therapy and rehabilitation; (b) The cost of transportation, temporary housing and child care; (c) The return of property, the cost of repairing damaged property or the full value of the property if it is destroyed or damaged beyond repair; (d) Expenses incurred by a victim in relocating away from the defendant or his or her associates, if the expenses are verified by law enforcement to be necessary for the personal safety of the victim; (e) The cost of repatriation of the victim to his or her home country, if applicable; and (f) Any and all other losses suffered by the victim as a result of the violation of any provision of NRS 200.467, 200.468 or 200.4685. <p>3. The return of the victim to his or her home country or other absence of the victim from the jurisdiction does not prevent the victim from receiving restitution.</p> <p>4. As used in this section, “victim” means any person:</p> <ul style="list-style-type: none"> (a) Against whom a violation of any provision of NRS 200.467, 200.468 or 200.4685 has been committed; or (b) Who is the surviving child of such a person. <p><i>Nev. Rev. Stat. Ann. § 201.325 (Power of court to order restitution).</i></p> <p>1. In addition to any other penalty, the court may order a person convicted of a violation of any provision of NRS 201.300 or 201.320 to pay restitution to the victim as provided in subsection 2.</p> <p>2. Restitution ordered pursuant to this section may include, without limitation:</p> <ul style="list-style-type: none"> (a) The cost of medical and psychological treatment, including, without limitation, physical and occupational therapy and rehabilitation; (b) The cost of transportation, temporary housing and child care; (c) The return of property, the cost of repairing damaged property or the full value of the property if it is destroyed or damaged beyond repair; (d) Expenses incurred by a victim in relocating away from the defendant or his or her associates, if the expenses are verified by law enforcement to be necessary for the personal safety of the victim; (e) The cost of repatriation of the victim to his or her home country, if applicable; and (f) Any and all other losses suffered by the victim as a result of the violation of any provision of NRS 201.300 or 201.320. |

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| | <p>3. The return of the victim to his or her home country or other absence of the victim from the jurisdiction does not prevent the victim from receiving restitution.</p> <p>4. As used in this section, “victim” means any person:</p> <p>(a) Against whom a violation of any provision of NRS 201.300 or 201.320 has been committed; or</p> <p>(b) Who is the surviving child of such a person.</p> <p><i>Nev. Rev. Stat. Ann. § 213.126 (Requirement of restitution as a condition of parole; Restitution Trust Fund).</i></p> <p>1. Unless complete restitution was made while the parolee was incarcerated, the Board shall impose as a condition of parole, in appropriate circumstances, a requirement that the parolee make restitution to the person or persons named in the statement of parole conditions, including restitution to a governmental entity for expenses related to extradition, at the times specified in the statement unless the Board finds that restitution is impracticable. The amount of restitution must be the amount set by the court pursuant to NRS 176.033. In appropriate circumstances, the Board shall include as a condition of parole that the parolee execute an assignment of wages earned by the parolee while on parole to the Division for restitution.</p> <p>2. All money received by the Division for restitution must be deposited with the State Treasurer for credit to the Restitution Trust Fund which is hereby created.</p> <p>3. The Division shall make pro rata payments from the money received from the parolee to each person to whom the restitution was ordered pursuant to NRS 176.033. Such a payment must be made not less than once each fiscal year. Any money received from the parolee that is remaining at the end of each fiscal year must be paid at that time in pro rata payments to each person to whom the restitution was ordered. A final pro rata payment must be made to such persons when the parolee pays the entire restitution owed.</p> <p>4. A person to whom restitution was ordered pursuant to NRS 176.033 may at any time file an application with the Division requesting the Division to make a pro rata payment from the money received from the parolee. If the Division finds that the applicant is suffering a serious financial hardship and is in need of financial assistance, the Division shall pay to the applicant his or her pro rata share of the money received from the parolee.</p> <p>5. All payments from the Fund must be paid as other claims against the State are paid.</p> <p>6. If restitution is not required, the Board shall set forth the circumstances upon which it finds restitution impracticable in its statement of parole conditions.</p> <p>7. Failure to comply with a restitution requirement imposed by the Board is a violation of a condition of parole unless the parolee’s failure was caused by economic hardship resulting in his or her inability to pay the amount due. The parolee is entitled to a hearing to show the existence of that hardship.</p> |

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| | <p>8. If, within 3 years after the parolee is discharged from parole, the Division has not located the person to whom the restitution was ordered, the money paid to the Division by the parolee must be deposited with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime.</p> |
| <p>New Hampshire</p> | <p><i>N.H. Rev. Stat. Ann. § 21-M:8-k (Rights of Crime Victims).</i></p> <p>I. As used in this section:</p> <p>(a) “Victim” means a person who suffers direct or threatened physical, emotional, psychological or financial harm as a result of the commission or the attempted commission of a crime. “Victim” also includes the immediate family of any victim who is a minor or who is incompetent, or the immediate family of a homicide victim, or the surviving partner in a civil union.</p> <p>(b) “Crime” means a violation of a penal law of this state for which the offender, upon conviction, may be punished by imprisonment for more than one year or an offense expressly designated by law to be a felony.</p> <p>II. To the extent that they can be reasonably guaranteed by the courts and by law enforcement and correctional authorities, and are not inconsistent with the constitutional or statutory rights of the accused, crime victims are entitled to the following rights:</p> <p>...</p> <p>(j) The right to restitution, as granted under RSA 651:62-67 or any other applicable state law, or victim’s compensation, under RSA 21-M:8-h or any other applicable state law, for their losses.</p> <p>....</p> <p><i>N.H. Rev. Stat. Ann. § 633:10 (Restitution and Compensation).</i></p> <p>I. A person convicted under this section shall be ordered by the court to pay restitution to the victim. Such restitution may include but not be limited to:</p> <p>(a) Any economic loss compensable under RSA 651:62, in accordance with the provisions of RSA 651:61-a through RSA 651:67; and</p> <p>(b) The value of the victim’s labor as guaranteed under the minimum wage law and overtime provisions of the Fair Labor Standards Act or the state minimum wage law, whichever is greater.</p> <p>II. To the extent not included in economic loss that is compensable under paragraph I, the court may also order a person convicted under this section to pay compensation as follows:</p> <p>(a) Costs of medical and psychological treatment, including physical and occupational therapy and rehabilitation, at the court’s discretion;</p> |

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| | <p>(b) Costs of necessary transportation, temporary housing, and child care, at the court’s discretion;</p> <p>(c) Return of property, cost of damage to property, or full value of property if destroyed or damaged beyond repair;</p> <p>(d) Expenses incurred by a victim and any household members or other family members in relocating away from the defendant or his or her associates, including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items; and</p> <p>(e) Any and all other losses suffered by the victim as a result of an offense under this section.</p> <p>III. The return of the victim to her or his home country or other absence of the victim from the jurisdiction shall not relieve the defendant of his or her restitution obligation.</p> <p>IV. Except as otherwise provided in this section, the provisions of RSA 651:61-a through RSA 651:67 shall govern all restitution and compensation orders.</p> <p><i>N.H. Rev. Stat. Ann. § 651:61-a (Statement of Purpose).</i></p> <p>I. The legislature finds and declares that the victims of crimes often suffer losses through no fault of their own and for which there is no compensation. It also finds that repayment, in whole or in part, by the offender to the victim can operate to rehabilitate the offender. It is the purpose of this act to establish a presumption that the victim will be compensated by the offender who is responsible for the loss. Restitution by the offender can serve to reinforce the offender’s sense of responsibility for the offense, to provide the offender the opportunity to pay the offender’s debt to society and to the victim in a constructive manner, and to ease the burden of the victim as a result of the criminal act.</p> <p>II. The legislature does not intend that restitution be contingent upon an offender’s current ability to pay or upon the availability of other compensation. The legislature intends that the court increase, to the maximum extent feasible, the number of instances in which victims receive restitution. The legislature does not intend the use of restitution to result in preferential treatment for offenders with substantial financial resources.</p> <p><i>N.H. Rev. Stat. Ann. § 651:62 (Definitions).</i></p> <p>As used in this subdivision, unless the context otherwise indicates:</p> <p>I. “Claimant” means a victim, dependent, or any person legally authorized to act on behalf of the victim.</p> <p>II. “Dependent” means any person who was wholly or partially dependent upon the victim for care and support when the crime was committed.</p> <p>III. “Economic loss” means out-of-pocket losses or other expenses incurred as a direct result of a criminal offense, including:</p> |

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| | <p>(a) Reasonable charges incurred for reasonably needed products, services and accommodations, including but not limited to charges for medical and dental care, rehabilitation, and other remedial treatment and care including mental health services for the victim or, in the case of the death of the victim, for the victim’s spouse and immediate family;</p> <p>(b) Loss of income by the victim or the victim’s dependents;</p> <p>(c) The value of damaged, destroyed, or lost property;</p> <p>(d) Expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured or deceased victim would have performed, if the crime had not occurred, for the benefit of the victim or the victim’s dependents;</p> <p>(e) Reasonable expenses related to funeral and burial or crematory services for the decedent victim.</p> <p>IV. “Offender” means any person convicted of a criminal or delinquent act.</p> <p>V. “Restitution” means money or service provided by the offender to compensate a victim for economic loss, or to compensate any collateral source subrogated to the rights of the victim, which indemnifies a victim for economic loss under this subdivision.</p> <p>VI. “Victim” means a person or claimant who suffers economic loss as a result of an offender’s criminal conduct or the good faith effort of any person attempting to prevent or preventing the criminal conduct.</p> <p><i>N.H. Rev. Stat. Ann. § 651:63 (Restitution Authorized).</i></p> <p>I. Any offender may be sentenced to make restitution in an amount determined by the court. In any case in which restitution is not ordered, the court shall state its reasons therefor on the record or in its sentencing order. Restitution may be ordered regardless of the offender’s ability to pay and regardless of the availability of other compensation; however, restitution is not intended to compensate the victim more than once for the same injury. A restitution order is not a civil judgment.</p> <p>II. Restitution ordered shall be in addition to any other penalty or fine and may be a condition of probation or parole. Restitution, if ordered, may also be a condition of any work release program administered under RSA 651:19 or RSA 651:25.</p> <p>III. The making of a restitution order shall not affect the right of a victim to compensation under RSA 21-M:8-h, except to the extent that restitution is actually collected pursuant to the order. The offender shall reimburse the victims’ assistance fund for any payments made by the fund to the victim pursuant to RSA 21-M:8-h after the restitution order is satisfied. Refused or unclaimed restitution payments shall be made to the victims’ assistance fund.</p> |

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| | <p>IV. The court’s determination of the amount of restitution shall not be admissible as evidence in a civil action. The court shall reduce any civil damage awards by restitution ordered and paid to the victim. Restitution orders shall survive bankruptcy.</p> <p>V. When restitution is ordered to be paid through the department of corrections, division of field services, the court shall add 17 percent to the total restitution payment as an administrative fee to be paid by the offender. Such administrative fee shall be divided into the following components, to be designated as follows: 15 percent shall be continually appropriated to a special fund for the division of field services, department of corrections, \$22,500 of which shall lapse to the general fund at the end of each quarter should that amount be received, to maximize restitution collections, directly or through agents of contractors selected by the department; and 2 percent for the victims’ assistance fund. Unexpended account balances in the special fund for the division of field services in excess of \$50,000 at the end of the fiscal year shall lapse to the general fund. Administrative fees shall be paid by the offender in addition to and when each restitution payment is made.</p> <p>VI. Restitution, administrative fines and fees, and other fees collected, except for supervision fees pursuant to RSA 504-A:13, shall be allocated on a pro-rata basis by the commissioner of corrections or his or her designee when payments are insufficient to cover the full amount due for each of these balances, except that restitution to victims shall have priority over all other allocations.</p> <p>VII. On or before July 1, 1997, and each year thereafter until July 1, 2000, the division of field services, department of corrections, shall submit an annual budget plan to the joint legislative fiscal committee. The division of field services, department of corrections, shall have the authority to hire temporary personnel and to procure equipment and expend relevant operating expenses as may be necessary to implement this chapter.</p> |
| New Jersey | <p><i>N.J. Stat. Ann. § 2C:13-8 (Human trafficking).</i></p> <p>...</p> <p>e. In addition to any other disposition authorized by law, any person who violates the provisions of this section shall be ordered to make restitution to any victim.</p> <p>The court shall award to the victim restitution which is the greater of:</p> <p>(1) the gross income or value to the defendant of the victim’s labor or services; or</p> <p>(2) the value of the victim’s labor or services as determined by the “New Jersey Prevailing Wage Act,” P.L.1963, c. 150 (C.34:11-56.25 et seq.), the “New Jersey State Wage and Hour Law,” P.L.1966, c. 113 (C.34:11-56a et seq.), the Seasonal Farm Labor Act, P.L.1945, c. 71 (C.34:9A-1 et seq.), the laws concerning</p> |

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| | <p>the regulation of child labor in chapter 2 of Title 34 of the Revised Statutes, or any other applicable State law, and the “Fair Labor Standards Act of 1938,” 29 U.S.C. s.201 et seq., or any other applicable federal law.</p> <p><i>N.J. Stat. Ann. § 2C:43-2 (Sentence in accordance with code; authorized dispositions).</i></p> <p>Sentence in accordance with code; authorized dispositions. a. Except as otherwise provided by this code, all persons convicted of an offense or offenses shall be sentenced in accordance with this chapter.</p> <p>b. Except as provided in subsection a. of this section and subject to the applicable provisions of the code, the court may suspend the imposition of sentence on a person who has been convicted of an offense, or may sentence him as follows:</p> <ol style="list-style-type: none"> (1) To pay a fine or make restitution authorized by N.J.S.2C:43-3 or P.L.1997, c. 253 (C.2C:43-3.4 et al.); or (2) Except as provided in subsection g. of this section, to be placed on probation and, in the case of a person convicted of a crime, to imprisonment for a term fixed by the court not exceeding 364 days to be served as a condition of probation, or in the case of a person convicted of a disorderly persons offense, to imprisonment for a term fixed by the court not exceeding 90 days to be served as a condition of probation; or (3) To imprisonment for a term authorized by sections 2C:11-3, 2C:43-5, 2C:43-6, 2C:43-7, and 2C:43-8 or 2C:44-5; or (4) To pay a fine, make restitution and probation, or fine, restitution and imprisonment; or (5) To release under supervision in the community or to require the performance of community-related service; or (6) To a halfway house or other residential facility in the community, including agencies which are not operated by the Department of Human Services; or (7) To imprisonment at night or on weekends with liberty to work or to participate in training or educational programs. <p>c. Instead of or in addition to any disposition made according to this section, the court may postpone, suspend, or revoke for a period not to exceed two years the driver’s license, registration certificate, or both of any person convicted of a crime, disorderly persons offense, or petty disorderly persons offense in the course of which a motor vehicle was used. In imposing this disposition and in deciding the duration of the postponement, suspension, or revocation, the court shall consider the severity of the crime or offense and the potential effect of the loss of driving privileges on the person’s ability to be rehabilitated. Any postponement, suspension, or revocation shall be imposed consecutively with any custodial sentence.</p> |

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| | <p>d. This chapter does not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. Such a judgment or order may be included in the sentence.</p> <p>e. The court shall state on the record the reasons for imposing the sentence, including its findings pursuant to the criteria for withholding or imposing imprisonment or fines under sections 2C:44-1 to 2C:44-3, where imprisonment is imposed, consideration of the defendant’s eligibility for release under the law governing parole and the factual basis supporting its findings of particular aggravating or mitigating factors affecting sentence.</p> <p>f. The court shall explain the parole laws as they apply to the sentence and shall state:</p> <ol style="list-style-type: none"> (1) the approximate period of time in years and months the defendant will serve in custody before parole eligibility; (2) the jail credits or the amount of time the defendant has already served; (3) that the defendant may be entitled to good time and work credits; and (4) that the defendant may be eligible for participation in the Intensive Supervision Program. <p>g. Notwithstanding the provisions of paragraph (2) of subsection b. of this section, a court imposing sentence on a defendant who has been convicted of any offense enumerated in subsection a. of section 2 of P.L.1994, c. 130 (C.2C:43-6.4) may not sentence the defendant to be placed on probation.</p> <p><i>N.J. Stat. Ann. § 2C:43-3 (Fines and restitution).</i> Fines and Restitutions. A person who has been convicted of an offense may be sentenced to pay a fine, to make restitution, or both, such fine not to exceed:</p> <ol style="list-style-type: none"> a. (1) \$200,000.00 when the conviction is of a crime of the first degree; (2) \$150,000.00 when the conviction is of a crime of the second degree; b. (1) \$15,000.00 when the conviction is of a crime of the third degree; (2) \$10,000.00 when the conviction is of a crime of the fourth degree; c. \$1,000.00, when the conviction is of a disorderly persons offense; d. \$500.00, when the conviction is of a petty disorderly persons offense; e. Any higher amount equal to double the pecuniary gain to the offender or loss to the victim caused by the conduct constituting the offense by the offender. In such case the court shall make a finding as to the amount of the gain or loss, and if the record does not contain sufficient evidence to support such a finding the court may conduct a hearing upon the issue. For purposes of this section the term “gain” means the amount of money or the value of property derived by the offender and “loss” means the amount of value separated from the victim |

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| | <p>or the amount of any payment owed to the victim and avoided or evaded and includes any reasonable and necessary expense incurred by the owner in recovering or replacing lost, stolen or damaged property, or recovering any payment avoided or evaded, and, with respect to property of a research facility, includes the cost of repeating an interrupted or invalidated experiment or loss of profits. The term “victim” shall mean a person who suffers a personal physical or psychological injury or death or incurs loss of or injury to personal or real property as a result of a crime committed against that person, or in the case of a homicide, the nearest relative of the victim. The terms “gain” and “loss” shall also mean, where appropriate, the amount of any tax, fee, penalty and interest avoided, evaded, or otherwise unpaid or improperly retained or disposed of;</p> <p>f. Any higher amount specifically authorized by another section of this code or any other statute;</p> <p>g. Up to twice the amounts authorized in subsection a., b., c. or d. of this section, in the case of a second or subsequent conviction of any tax offense defined in Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, as amended and supplemented, or of any offense defined in chapter 20 or 21 of this code;</p> <p>h. In the case of violations of chapter 35, any higher amount equal to three times the street value of the controlled dangerous substance or controlled substance analog. The street value for purposes of this section shall be determined pursuant to subsection e. of N.J.S.2C:44-2.</p> <p>The restitution ordered paid to the victim shall not exceed the victim’s loss, except that in any case involving the failure to pay any State tax, the amount of restitution to the State shall be the full amount of the tax avoided or evaded, including full civil penalties and interest as provided by law.</p> <p>In any case where the victim of the offense is any department or division of State government, the court shall order restitution to the victim. Any restitution imposed on a person shall be in addition to any fine which may be imposed pursuant to this section.</p> <p><i>N.J. Stat. Ann. § 2C:44-2 (Criteria for imposing fines and restitution).</i></p> <p>a. The court may sentence a defendant to pay a fine in addition to a sentence of imprisonment or probation if:</p> <ol style="list-style-type: none"> (1) The defendant has derived a pecuniary gain from the offense or the court is of opinion that a fine is specially adapted to deterrence of the type of offense involved or to the correction of the offender; (2) The defendant is able, or given a fair opportunity to do so, will be able to pay the fine; and (3) The fine will not prevent the defendant from making restitution to the victim of the offense. <p>b. The court shall sentence a defendant to pay restitution in addition to a sentence of imprisonment or probation that may be imposed if:</p> <ol style="list-style-type: none"> (1) The victim, or in the case of a homicide, the nearest relative of the victim, suffered a loss; and (2) The defendant is able to pay or, given a fair opportunity, will be able to pay restitution. |

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| | <p>c. (1) In determining the amount and method of payment of a fine, the court shall take into account the financial resources of the defendant and the nature of the burden that its payment will impose.</p> <p>(2) In determining the amount and method of payment of restitution, the court shall take into account all financial resources of the defendant, including the defendant’s likely future earnings, and shall set the amount of restitution so as to provide the victim with the fullest compensation for loss that is consistent with the defendant’s ability to pay. The court shall not reduce a restitution award by any amount that the victim has received from the Violent Crimes Compensation Board, but shall order the defendant to pay any restitution ordered for a loss previously compensated by the Board to the Violent Crimes Compensation Board. If restitution to more than one person is set at the same time, the court shall set priorities of payment.</p> <p>d. Nonpayment. When a defendant is sentenced to pay a fine or make restitution, or both, the court shall not impose at the same time an alternative sentence to be served in the event that the fine or restitution is not paid. The response of the court to nonpayment shall be determined only after the fine or restitution has not been paid, as provided in section 2C:46-2.</p> <p>e. Whenever the maximum potential fine which may be imposed on a conviction for an offense defined in the “Comprehensive Drug Reform Act of 1986,” N.J.S. 2C:35-1 et al. depends on the street value of the controlled dangerous substance or controlled substance analog involved and the court intends to impose a fine in excess of the maximum ordinary fine applicable to the offense for which defendant was convicted, and where the fine has not been agreed to pursuant to the provisions of N.J.S. 2C:35-12, the court at the time of sentence shall determine the street value at the time and place of the offense based on the amount and purity of the controlled dangerous substance or controlled substance analog involved. The sentencing court’s finding as to the street value may be based on expert opinion in the form of live testimony or by affidavit, or by such other means as the court deems appropriate. The court’s finding as to street value shall not be subject to modification by an appellate court except upon a showing that the finding was totally lacking in support on the record or was arbitrary or capricious.</p> <p>f. The ordering of restitution pursuant to this section shall not operate as a bar to the seeking of civil recovery by the victim based on the incident underlying the criminal conviction. Restitution ordered under this section is to be in addition to any civil remedy which a victim may possess, but any amount due the victim under any civil remedy shall be reduced by the amount ordered under this section to the extent necessary to avoid double compensation for the same loss, and the initial restitution judgment shall remain in full force and effect.</p> <p><i>N.J. Stat. Ann. § 52:4B-36 (Rights of crime victims and witnesses).</i> The Legislature finds and declares that crime victims and witnesses are entitled to the following rights:</p> |

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| | <p>...</p> <p>h. To be informed about available remedies, financial assistance and social services;</p> <p>i. To be compensated for loss sustained by the victim whenever possible;</p> <p>....</p> |
| <p>New Mexico</p> | <p><i>N.M. Const. art. 2, § 24 (Rights of crime victims).</i></p> <p>A. A victim of arson resulting in bodily injury, aggravated arson, aggravated assault, aggravated battery, dangerous use of explosives, negligent use of a deadly weapon, murder, voluntary manslaughter, involuntary manslaughter, kidnapping, criminal sexual penetration, criminal sexual contact of a minor, homicide by vehicle, great bodily injury by vehicle or abandonment or abuse of a child or that victim’s representative shall have the following rights as provided by law:</p> <ol style="list-style-type: none"> (1) the right to be treated with fairness and respect for the victim’s dignity and privacy throughout the criminal justice process; (2) the right to timely disposition of the case; (3) the right to be reasonably protected from the accused throughout the criminal justice process; (4) the right to notification of court proceedings; (5) the right to attend all public court proceedings the accused has the right to attend; (6) the right to confer with the prosecution; (7) the right to make a statement to the court at sentencing and at any post-sentencing hearings for the accused; (8) the right to restitution from the person convicted of the criminal conduct that caused the victim’s loss or injury; (9) the right to information about the conviction, sentencing, imprisonment, escape or release of the accused; (10) the right to have the prosecuting attorney notify the victim’s employer, if requested by the victim, of the necessity of the victim’s cooperation and testimony in a court proceeding that may necessitate the absence of the victim from work for good cause; and (11) the right to promptly receive any property belonging to the victim that is being held for evidentiary purposes by a law enforcement agency or the prosecuting attorney, unless there are compelling evidentiary reasons for retention of the victim’s property. <p>B. A person accused or convicted of a crime against a victim shall have no standing to object to any failure by any person to comply with the provisions of Subsection A of Section 24 of Article 2 of the constitution of New Mexico.</p> |

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| | <p>C. The provisions of this amendment shall not take affect until the legislature enacts laws to implement this amendment.</p> <p><i>N.M. Stat. Ann. § 31-17-1 (Victim restitution).</i></p> <p>A. It is the policy of this state that restitution be made by each violator of the Criminal Code to the victims of his criminal activities to the extent that the defendant is reasonably able to do so. This section shall be interpreted and administered to effectuate this policy. As used in this section, unless the context otherwise requires:</p> <p>(1) “victim” means any person who has suffered actual damages as a result of the defendant’s criminal activities;</p> <p>(2) “actual damages” means all damages which a victim could recover against the defendant in a civil action arising out of the same facts or event, except punitive damages and damages for pain, suffering, mental anguish and loss of consortium. Without limitation, “actual damages” includes damages for wrongful death;</p> <p>(3) “criminal activities” includes any crime for which there is a plea of guilty or verdict of guilty, upon which a judgment may be rendered and any other crime committed after July 1, 1977 which is admitted or not contested by the defendant; and</p> <p>(4) “restitution” means full or partial payment of actual damages to a victim.</p> <p>B. If the trial court exercises either of the sentencing options under Section 31-20-6 NMSA 1978, the court shall require as a condition of probation or parole that the defendant, in cooperation with the probation or parole officer assigned to the defendant, promptly prepare a plan of restitution, including a specific amount of restitution to each victim and a schedule of restitution payments. If the defendant is currently unable to make any restitution but there is a reasonable possibility that the defendant may be able to do so at some time during his probation or parole period, the plan of restitution shall also state the conditions under which or the event after which the defendant will make restitution. If the defendant believes that he will not be able to make any restitution, he shall so state and shall specify the reasons. If the defendant believes that no person suffered actual damages as a result of the defendant’s criminal activities, he shall so state.</p> <p>C. The defendant’s plan of restitution and the recommendations of his probation or parole officer shall be submitted promptly to the court. The court shall promptly enter an order approving, disapproving or modifying the plan, taking into account the factors enumerated in Subsection D of this section. Compliance with the plan of restitution as approved or modified by the court shall be a condition of the defendant’s probation or parole. Restitution payments shall be made to the clerk of the court unless otherwise directed by the court. The court thereafter may modify the plan at any time upon the defendant’s request or upon the court’s own motion. If the</p> |

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| | <p>plan as approved or modified does not require full payment of actual damages to all victims or if the court determines that the defendant is not able and will not be able to make any restitution at any time during his probation or parole period or that no person suffered actual damages as a result of the defendant’s criminal activities, the court shall file a specific written statement of its reasons for and the facts supporting its action or determination.</p> <p>D. An order requiring an offender to pay restitution, validly entered pursuant to this section, constitutes a judgment and lien against all property of a defendant for the amount the defendant is obligated to pay under the order and may be recorded in any office for the filing of liens against real or personal property, or for garnishment. A judgment of restitution may be enforced by the state, a victim entitled under the order to receive restitution, a deceased victim’s estate or any other beneficiary of the judgment in the same manner as a civil judgment. An order of restitution is enforceable, if valid, pursuant to this section, the Victims of Crime Act or Article 2, Section 24 of the constitution of New Mexico. Nothing in this section shall be construed to limit the ability of a victim to pursue full civil legal remedies.</p> <p>E. The probation or parole officer, when assisting the defendant in preparing the plan of restitution, and the court, before approving, disapproving or modifying the plan of restitution, shall consider the physical and mental health and condition of the defendant; the defendant’s age, education, employment circumstances, potential for employment and vocational training, family circumstances and financial condition; the number of victims; the actual damages of each victim; what plan of restitution will most effectively aid the rehabilitation of the defendant; and such other factors as shall be appropriate. The probation or parole officer shall attempt to determine the name and address of each victim and the amount of pecuniary damages of each victim.</p> <p>F. The clerk of the court shall mail to each known victim a copy of the court’s order approving or modifying the plan of restitution, including the court’s statement, if any, pursuant to the provisions of Subsection C of this section.</p> <p>G. At any time during the probation or parole period, the defendant or the victim may request and the court shall grant a hearing on any matter related to the plan of restitution.</p> <p>H. Failure of the defendant to comply with Subsection B of this section or to comply with the plan of restitution as approved or modified by the court may constitute a violation of the conditions of probation or parole. Without limitation, the court may modify the plan of restitution or extend the period of time for restitution, but not beyond the maximum probation or parole period specified in Section 31-21-10 NMSA 1978.</p> <p>I. This section and proceedings pursuant to this section shall not limit or impair the rights of victims to recover damages from the defendant in a civil action.</p> |

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| | <p>J. The rightful owner of any stolen property is the individual from whom the property was stolen. When recovering his property, the rightful owner of the stolen property shall not be civilly liable to any subsequent holder, possessor or retainer of the property for the purchase or sale price of the property or for any other costs or expenses associated with the property. Any subsequent holder, possessor or retainer of returned stolen property shall return the property to the rightful owner. The subsequent holder, possessor or retainer shall have a cause of action against the person from whom he obtained the property for actual damages.</p> |
| <p>New York</p> | <p><i>N.Y. Penal Law § 60.27 (Restitution and reparation).</i></p> <p>1. In addition to any of the dispositions authorized by this article, the court shall consider restitution or reparation to the victim of the crime and may require restitution or reparation as part of the sentence imposed upon a person convicted of an offense, and after providing the district attorney with an opportunity to be heard in accordance with the provisions of this subdivision, require the defendant to make restitution of the fruits of his or her offense or reparation for the actual out-of-pocket loss caused thereby and, in the case of a violation of section 190.78, 190.79, 190.80, 190.82 or 190.83 of this chapter, any costs or losses incurred due to any adverse action taken against the victim. The district attorney shall where appropriate, advise the court at or before the time of sentencing that the victim seeks restitution or reparation, the extent of injury or economic loss or damage of the victim, and the amount of restitution or reparation sought by the victim in accordance with his or her responsibilities under subdivision two of section 390.50 of the criminal procedure law and article twenty-three of the executive law. The court shall hear and consider the information presented by the district attorney in this regard. In that event, or when the victim impact statement reports that the victim seeks restitution or reparation, the court shall require, unless the interests of justice dictate otherwise, in addition to any of the dispositions authorized by this article that the defendant make restitution of the fruits of the offense and reparation for the actual out-of-pocket loss and, in the case of a violation of section 190.78, 190.79, 190.80, 190.82 or 190.83 of this chapter, any costs or losses incurred due to any adverse action, caused thereby to the victim. In the event that restitution or reparation are not ordered, the court shall clearly state its reasons on the record. Adverse action as used in this subdivision shall mean and include actual loss incurred by the victim, including an amount equal to the value of the time reasonably spent by the victim attempting to remediate the harm incurred by the victim from the offense, and the consequential financial losses from such action.</p> <p>2. Whenever the court requires restitution or reparation to be made, the court must make a finding as to the dollar amount of the fruits of the offense and the actual out-of-pocket loss to the victim caused by the offense. In making this finding, the court must consider any victim impact statement provided to the court. If the record</p> |

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| | <p>does not contain sufficient evidence to support such finding or upon request by the defendant, the court must conduct a hearing upon the issue in accordance with the procedure set forth in section 400.30 of the criminal procedure law.</p> <p>3. The provisions of sections 420.10, 420.20 and 420.30 of the criminal procedure law shall apply in the collection and remission of restitution and reparation.</p> <p>4. For purposes of the imposition, determination and collection of restitution or reparation, the following definitions shall apply:</p> <p>(a) the term “offense” shall include the offense for which a defendant was convicted, as well as any other offense that is part of the same criminal transaction or that is contained in any other accusatory instrument disposed of by any plea of guilty by the defendant to an offense.</p> <p>(b) the term “victim” shall include the victim of the offense, the representative of a crime victim as defined in subdivision six of section six hundred twenty-one of the executive law, an individual whose identity was assumed or whose personal identifying information was used in violation of section 190.78, 190.79 or 190.80 of this chapter, or any person who has suffered a financial loss as a direct result of the acts of a defendant in violation of section 190.78, 190.79, 190.80, 190.82 or 190.83 of this chapter, a good samaritan as defined in section six hundred twenty-one of the executive law and the office of victim services or other governmental agency that has received an application for or has provided financial assistance or compensation to the victim. A victim shall also mean any owner or lawful producer of a master recording, or a trade association that represents such owner or lawful producer, that has suffered injury as a result of an offense as defined in article two hundred seventy-five of this chapter.</p> <p>5. (a) Except upon consent of the defendant or as provided in paragraph (b) of this subdivision, or as a condition of probation or conditional discharge as provided in paragraph (g) of subdivision two of section 65.10 of this chapter, the amount of restitution or reparation required by the court shall not exceed fifteen thousand dollars in the case of a conviction for a felony, or ten thousand dollars in the case of a conviction for any offense other than a felony. Notwithstanding the provisions of this subdivision, if an officer of a school district is convicted of violating any section of article one hundred fifty-five of this chapter where the victim of such crime is such officer’s school district, the court may require an amount of restitution up to the full amount of the fruits of the offense or reparation up to the full amount of the actual out-of-pocket loss suffered by the victim, provided further that in such case the provisions of paragraph (b) of this subdivision shall not apply.</p> <p>(b) The court in its discretion may impose restitution or reparation in excess of the amounts specified in paragraph (a) of this subdivision, provided however that the amount in excess must be limited to the return of the victim’s property, including money, or the equivalent value thereof; and reimbursement for medical</p> |

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| | <p>expenses actually incurred by the victim prior to sentencing as a result of the offense committed by the defendant.</p> <p>6. Any payment made as restitution or reparation pursuant to this section shall not limit, preclude or impair any liability for damages in any civil action or proceeding for an amount in excess of such payment.</p> <p>7. In the event that the court requires restitution or reparation to be made to a person and that person dies prior to the completion of said restitution or reparation, the remaining payments shall be made to the estate of the deceased.</p> <p>8. The court shall in all cases where restitution or reparation is imposed direct as part of the disposition that the defendant pay a designated surcharge of five percent of the entire amount of a restitution or reparation payment to the official or organization designated pursuant to subdivision eight of section 420.10 of the criminal procedure law. The designated surcharge shall not exceed five percent of the amount actually collected. Upon the filing of an affidavit of the official or organization designated pursuant to subdivision eight of section 420.10 of the criminal procedure law demonstrating that the actual cost of the collection and administration of restitution or reparation in a particular case exceeds five percent of the entire amount of the payment or the amount actually collected, as the case may be, the court shall direct that the defendant pay an additional surcharge of not more than five percent of the entire amount of a restitution or reparation payment to such official or organization, or the actual cost of collection or administration, whichever is less unless, upon application of the defendant, the court determines that imposition of such additional surcharge would cause undue hardship to the defendant, or any other person who is financially supported by the defendant, or would otherwise not be in the interest of justice. Such additional surcharge, when added to the initial five percent surcharge, shall not exceed ten percent of the amount actually collected.</p> <p>9. If the offense of which a person is convicted is a class A, class B, class C, or class D felony involving the sale of a controlled substance, as defined in article two hundred twenty of this chapter, and no other victim who is a person is seeking restitution in the case, the term “victim” as used in this section, in addition to its ordinary meaning, shall mean any law enforcement agency of the state of New York or of any subdivision thereof which has expended funds in the purchase of any controlled substance from such person or his agent as part of the investigation leading to such conviction. Any restitution which may be required to be made to a law enforcement agency pursuant to this section shall be limited to the amount of funds expended in the actual purchase of such controlled substance by such law enforcement agency, less the amount of any funds which have been or will be recovered from any other source, and shall not include a designated surcharge pursuant to subdivision eight of this section. Any law enforcement agency seeking restitution pursuant to this section shall file with the court and the district attorney an affidavit stating that funds expended in the actual purchase of a</p> |

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| | <p>controlled substance for which restitution is being sought have not been and will not be recovered from any other source or in any other civil or criminal proceeding. Any law enforcement agency receiving restitution pursuant to this section shall promptly transmit to the commissioner of the division of criminal justice services a report stating the dollar amount of the restitution received.</p> <p>10. If the offense of which a person is convicted is defined in section 150.10, 150.15 or 150.20 of this chapter, and no other victim who is a person is seeking restitution in the case, the term “victim” as used in this section, in addition to its ordinary meaning, shall mean any municipality or volunteer fire company which has expended funds or will expend funds for the purpose of restoration, rehabilitation or clean-up of the site of the arson. Any restitution which may be required to be made to a municipality or volunteer fire company pursuant to this section shall be limited to the amount of funds reasonably expended or to be expended for the purpose of restoration, rehabilitation or clean-up of the site of the arson, less the amount of any funds which have been or will be recovered from any other source, and shall not include a designated surcharge pursuant to subdivision eight of this section. Any municipality or volunteer fire company seeking restitution pursuant to this section shall file with the court, district attorney and defense counsel an affidavit stating that the funds reasonably expended or to be expended for which restitution is being sought have not been and will not be recovered from any other source or in any other civil or criminal proceeding. For the purposes of this subdivision, “volunteer fire company” means a fire company as defined in paragraph a of subdivision two of section one hundred of the general municipal law.</p> <p>11. Notwithstanding any other provision of this section to the contrary, when a person is convicted of harming an animal trained to aid a person with a disability in the second degree as defined in section 195.11 of this chapter, or harming an animal trained to aid a person with a disability in the first degree as defined in section 195.12 of this chapter, the court, in addition to any other sentence, shall order the payment of restitution to the person with a disability who was aided by such animal.</p> <p>12. If the offense of which a person is convicted is defined in section 155.25, 155.30, 155.35, 155.40 or 155.42 of this chapter, and the property taken is timber, the court may upon conviction, in addition to any other sentence, direct the defendant to pay the rightful owner of such timber an amount equal to treble the stumpage value of the timber stolen as defined in section 71-0703 of the environmental conservation law and for any permanent and substantial damage caused to the land or the improvements thereon as a result of such violation. Such reparations shall be of such kind, nature and extent as will reasonably restore the lands affected by the violation to their condition immediately before the violation and may be made by physical restoration of such lands and/or by the assessment of monetary payment to make such restoration.</p> |

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| | <p>13. If the offense of which a person is convicted is defined in section 240.50, subdivision one or two of section 240.55, section 240.60, section 240.61, section 240.62 or section 240.63 of this chapter, and no other victim who is a person is seeking restitution in the case, the term “victim” as used in this subdivision, in addition to the ordinary meaning, shall mean any school, municipality, fire district, fire company, fire corporation, ambulance association, ambulance corporation, or other legal or public entity engaged in providing emergency services which has expended funds for the purpose of responding to a false report of an incident or false bomb as defined in section 240.50, subdivision one or two of section 240.55, section 240.60, section 240.61, section 240.62, or section 240.63 of this chapter. Any restitution which may be required to be made to a victim pursuant to this subdivision shall be limited to the amount of funds reasonably expended for the purpose of responding to such false report of incident or false bomb, less the amount of any funds which have been or will be recovered from any other source and shall not include a designated surcharge pursuant to subdivision eight of this section. Any victim seeking restitution pursuant to this subdivision shall file with the court, district attorney and defense counsel an affidavit stating that the funds reasonably expended for which restitution is being sought have not been and will not be recovered from any other source or in any other civil or criminal proceeding, except as provided for by section 3-112 of the general obligations law.</p> <p>14. Where a transfer of probation has occurred pursuant to section 410.80 of the criminal procedure law and the probationer is subject to a restitution condition, the department of probation in the county in which the order of restitution was imposed shall notify the appropriate district attorney. Upon notification by the department of probation, such district attorney shall file a certified copy of the judgment with the clerk of the county in the receiving jurisdiction for purposes of establishing a first lien and to permit institution of civil proceedings pursuant to the provisions of subdivision six of section 420.10 of the criminal procedure law.</p> |
| <p>North Carolina</p> | <p><i>N.C. Const. art I, § 37 (Rights of victims of crime) (effective until Aug. 31, 2019).</i> (1) Basic rights. Victims of crime, as prescribed by law, shall be entitled to the following basic rights: . . . (c) The right as prescribed by law to receive restitution. </p> <p><i>N.C. Const. art I, § 37 (Rights of victims of crime) (effective Aug. 31, 2019).</i> (1) Basic rights. Victims of crime or acts of delinquency shall be treated with dignity and respect by the criminal justice system.</p> |

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| | <p>(1a) Enumerated rights. When the crime or act of delinquency is one against or involving the person of the victim or is equivalent to a felony property crime, the victim is entitled to the following rights: ... (c) The right to receive restitution in a reasonably timely manner, when ordered by the court. </p> <p><i>N.C. Gen. Stat. Ann. § 14-43.20 (Mandatory restitution; victim services; forfeiture).</i> N.C. Const. art I, § 37 (Rights of victims of crime) (effective until Aug. 31, 2019). (1) Basic rights. Victims of crime, as prescribed by law, shall be entitled to the following basic rights: ... (c) The right as prescribed by law to receive restitution. </p> <p><i>N.C. Const. art I, § 37 (Rights of victims of crime) (effective Aug. 31, 2019).</i> (1) Basic rights. Victims of crime or acts of delinquency shall be treated with dignity and respect by the criminal justice system. (1a) Enumerated rights. When the crime or act of delinquency is one against or involving the person of the victim or is equivalent to a felony property crime, the victim is entitled to the following rights: ... (c) The right to receive restitution in a reasonably timely manner, when ordered by the court. </p> <p><i>N.C. Gen. Stat. Ann. § 14-43.20 (Mandatory restitution; victim services; forfeiture).</i> (a) Repealed by S.L. 2018-75, § 4(a), eff. Dec. 1, 2018. (b) Restitution.--Restitution for a victim is mandatory under this Article. At a minimum, the court shall order restitution in an amount equal to the value of the victim’s labor as guaranteed under the Minimum Wage Law and overtime provisions of the Fair Labor Standards Act (FLSA). In addition, the judge may order any other amount of loss identified, including the gross income or value to the defendant of the victim’s labor or services and any costs reasonably certain to be incurred by or on behalf of the victim for medical care, psychological treatment, temporary housing, transportation, funeral services, and any other services designed to assist a victim recover from any injuries or loss resulting from an offense committed under G.S. 14-43.11, 14-43.12, or 14-43.13.</p> |

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| | <p>(c) Trafficking Victim Services.--Subject to the availability of funds, the Department of Health and Human Services may provide or fund emergency services and assistance to individuals who are victims of one or more offenses under G.S. 14-43.11, 14-43.12, or 14-43.13.</p> <p>(d) Certification.--The Attorney General, a district attorney, or any law enforcement official shall certify in writing to the United States Department of Justice or other federal agency, such as the United States Department of Homeland Security, that an investigation or prosecution under this Article for a violation of G.S. 14-43.11, 14-43.12, or 14-43.13 has begun and the individual who is a likely victim of one of those crimes is willing to cooperate or is cooperating with the investigation to enable the individual, if eligible under federal law, to qualify for an appropriate special immigrant visa and to access available federal benefits. Cooperation with law enforcement shall not be required of victims who are under 18 years of age. This certification shall be made available to the victim and the victim's designated legal representative.</p> <p>(e) Forfeiture.--A person who commits a violation of G.S. 14-43.11, 14-43.12, or 14-43.13 is subject to the property forfeiture provisions set forth in G.S. 14-2.3.</p> <p>(f) Escheat.--If a judge finds that the victim to whom restitution is due under this Article is unavailable to claim the restitution award, then the judge shall order the restitution be made payable to the clerk of superior court in the county in which the conviction for the offense requiring restitution occurred. If the victim fails to claim the restitution award within two years of the date of the restitution order issued by the judge, the clerk shall remit the restitution proceeds to the Crime Victims Compensation Fund established pursuant to G.S. 15B-23. Notwithstanding any provision of G.S. 15B-23 to the contrary, funds remitted to the Crime Victims Compensation Fund shall be used only to provide aid to victims who are (i) worthy and needy as determined by the Crime Victims Compensation Commission and (ii) enrolled in public institutions of higher education of this State.</p> <p><i>N.C. Gen. Stat. Ann. § 15A-834 (Restitution).</i> A victim has the right to receive restitution as ordered by the court pursuant to Article 81C of Chapter 15A of the General Statutes.</p> <p><i>N.C. Gen. Stat. Ann. § 15A-1340.34 (Restitution generally).</i> (a) When sentencing a defendant convicted of a criminal offense, the court shall determine whether the defendant shall be ordered to make restitution to any victim of the offense in question. For purposes of this Article, the term “victim” means a person directly and proximately harmed as a result of the defendant’s commission of the criminal offense.</p> |

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| | <p>(b) If the defendant is being sentenced for an offense for which the victim is entitled to restitution under Article 46 of this Chapter, the court shall, in addition to any penalty authorized by law, require that the defendant make restitution to the victim or the victim’s estate for any injuries or damages arising directly and proximately out of the offense committed by the defendant. If the defendant is placed on probation or post-release supervision, any restitution ordered under this subsection shall be a condition of probation as provided in G.S. 15A-1343(d) or a condition of post-release supervision as provided in G.S. 148-57.1.</p> <p>(c) When subsection (b) of this section does not apply, the court may, in addition to any other penalty authorized by law, require that the defendant make restitution to the victim or the victim’s estate for any injuries or damages arising directly and proximately out of the offense committed by the defendant.</p> <p><i>N.C. Gen. Stat. Ann. § 15A-1340.35 (Basis for restitution).</i></p> <p>(a) In determining the amount of restitution, the court shall consider the following:</p> <p>(1) In the case of an offense resulting in bodily injury to a victim:</p> <ol style="list-style-type: none"> a. The cost of necessary medical and related professional services and devices or equipment relating to physical, psychiatric, and psychological care required by the victim; b. The cost of necessary physical and occupational therapy and rehabilitation required by the victim; and c. Income lost by the victim as a result of the offense. <p>(2) In the case of an offense resulting in the damage, loss, or destruction of property of a victim of the offense:</p> <ol style="list-style-type: none"> a. Return of the property to the owner of the property or someone designated by the owner; or b. If return of the property under sub-subdivision (2)a. of this subsection is impossible, impracticable, or inadequate: <ol style="list-style-type: none"> 1. The value of the property on the date of the damage, loss, or destruction; or 2. The value of the property on the date of sentencing, less the value of any part of the property that is returned. <p>(3) Any measure of restitution specifically provided by law for the offense committed by the defendant.</p> <p>(4) In the case of an offense resulting in bodily injury that results in the death of the victim, the cost of the victim’s necessary funeral and related services, in addition to the items set out in subdivisions (1), (2), and (3) of this subsection.</p> <p>(b) The court may require that the victim or the victim’s estate provide admissible evidence that documents the costs claimed by the victim or the victim’s estate under this section. Any such documentation shall be shared with the defendant before the sentencing hearing.</p> <p><i>N.C. Gen. Stat. Ann. § 15A-1340.36 (Determination of restitution).</i></p> |

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| | <p>(a) In determining the amount of restitution to be made, the court shall take into consideration the resources of the defendant including all real and personal property owned by the defendant and the income derived from the property, the defendant's ability to earn, the defendant's obligation to support dependents, and any other matters that pertain to the defendant's ability to make restitution, but the court is not required to make findings of fact or conclusions of law on these matters. The amount of restitution must be limited to that supported by the record, and the court may order partial restitution when it appears that the damage or loss caused by the offense is greater than that which the defendant is able to pay. If the court orders partial restitution, the court shall state on the record the reasons for such an order.</p> <p>(b) The court may require the defendant to make full restitution no later than a certain date or, if the circumstances warrant, may allow the defendant to make restitution in installments over a specified time period.</p> <p>(c) When an active sentence is imposed, the court shall consider whether it should recommend to the Secretary of Public Safety that restitution be made by the defendant out of any earnings gained by the defendant if the defendant is granted work-release privileges, as provided in G.S. 148-33.2. The court shall also consider whether it should recommend to the Post-Release Supervision and Parole Commission that restitution by the defendant be made a condition of any parole or post-release supervision granted the defendant, as provided in G.S. 148-57.1.</p> <p><i>N.C. Gen. Stat. Ann. § 15A-1340.37 (Effect of restitution order; beneficiaries).</i></p> <p>(a) An order providing for restitution does not abridge the right of a victim or the victim's estate to bring a civil action against the defendant for damages arising out of the offense committed by the defendant. Any amount paid by the defendant under the terms of a restitution order under this Article shall be credited against any judgment rendered against the defendant in favor of the same victim in a civil action arising out of the criminal offense committed by the defendant.</p> <p>(b) The court may order the defendant to make restitution to a person other than the victim, or to any organization, corporation, or association, including the Crime Victims Compensation Fund, that provided assistance to the victim following the commission of the offense by the defendant and is subrogated to the rights of the victim. Restitution shall be made to the victim or the victim's estate before it is made to any other person, organization, corporation, or association under this subsection.</p> <p>(c) No government agency shall benefit by way of restitution except for particular damage or loss to it over and above its normal operating costs and except that the State may receive restitution for the total amount of a judgment authorized by G.S. 7A-455(b).</p> |

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| | <p>(d) Repealed by S.L. 2016-78, § 6.4, eff. Dec. 1, 2016.</p> <p><i>N.C. Gen. Stat. Ann. § 15A-834 (Restitution).</i> A victim has the right to receive restitution as ordered by the court pursuant to Article 81C of Chapter 15A of the General Statutes.</p> <p><i>N.C. Gen. Stat. Ann. § 15A-1340.34 (Restitution generally).</i> (a) When sentencing a defendant convicted of a criminal offense, the court shall determine whether the defendant shall be ordered to make restitution to any victim of the offense in question. For purposes of this Article, the term “victim” means a person directly and proximately harmed as a result of the defendant’s commission of the criminal offense. (b) If the defendant is being sentenced for an offense for which the victim is entitled to restitution under Article 46 of this Chapter, the court shall, in addition to any penalty authorized by law, require that the defendant make restitution to the victim or the victim’s estate for any injuries or damages arising directly and proximately out of the offense committed by the defendant. If the defendant is placed on probation or post-release supervision, any restitution ordered under this subsection shall be a condition of probation as provided in G.S. 15A-1343(d) or a condition of post-release supervision as provided in G.S. 148-57.1. (c) When subsection (b) of this section does not apply, the court may, in addition to any other penalty authorized by law, require that the defendant make restitution to the victim or the victim’s estate for any injuries or damages arising directly and proximately out of the offense committed by the defendant.</p> <p><i>N.C. Gen. Stat. Ann. § 15A-1340.35 (Basis for restitution).</i> (a) In determining the amount of restitution, the court shall consider the following: (1) In the case of an offense resulting in bodily injury to a victim: a. The cost of necessary medical and related professional services and devices or equipment relating to physical, psychiatric, and psychological care required by the victim; b. The cost of necessary physical and occupational therapy and rehabilitation required by the victim; and c. Income lost by the victim as a result of the offense. (2) In the case of an offense resulting in the damage, loss, or destruction of property of a victim of the offense: a. Return of the property to the owner of the property or someone designated by the owner; or b. If return of the property under sub-subdivision (2)a. of this subsection is impossible, impracticable, or inadequate:</p> |

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| | <p>1. The value of the property on the date of the damage, loss, or destruction; or</p> <p>2. The value of the property on the date of sentencing, less the value of any part of the property that is returned.</p> <p>(3) Any measure of restitution specifically provided by law for the offense committed by the defendant.</p> <p>(4) In the case of an offense resulting in bodily injury that results in the death of the victim, the cost of the victim’s necessary funeral and related services, in addition to the items set out in subdivisions (1), (2), and (3) of this subsection.</p> <p>(b) The court may require that the victim or the victim’s estate provide admissible evidence that documents the costs claimed by the victim or the victim’s estate under this section. Any such documentation shall be shared with the defendant before the sentencing hearing.</p> <p><i>N.C. Gen. Stat. Ann. § 15A-1340.36 (Determination of restitution).</i></p> <p>(a) In determining the amount of restitution to be made, the court shall take into consideration the resources of the defendant including all real and personal property owned by the defendant and the income derived from the property, the defendant’s ability to earn, the defendant’s obligation to support dependents, and any other matters that pertain to the defendant’s ability to make restitution, but the court is not required to make findings of fact or conclusions of law on these matters. The amount of restitution must be limited to that supported by the record, and the court may order partial restitution when it appears that the damage or loss caused by the offense is greater than that which the defendant is able to pay. If the court orders partial restitution, the court shall state on the record the reasons for such an order.</p> <p>(b) The court may require the defendant to make full restitution no later than a certain date or, if the circumstances warrant, may allow the defendant to make restitution in installments over a specified time period.</p> <p>(c) When an active sentence is imposed, the court shall consider whether it should recommend to the Secretary of Public Safety that restitution be made by the defendant out of any earnings gained by the defendant if the defendant is granted work-release privileges, as provided in G.S. 148-33.2. The court shall also consider whether it should recommend to the Post-Release Supervision and Parole Commission that restitution by the defendant be made a condition of any parole or post-release supervision granted the defendant, as provided in G.S. 148-57.1.</p> <p><i>N.C. Gen. Stat. Ann. § 15A-1340.37 (Effect of restitution order; beneficiaries).</i></p> <p>(a) An order providing for restitution does not abridge the right of a victim or the victim’s estate to bring a civil action against the defendant for damages arising out of the offense committed by the defendant. Any amount</p> |

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| | <p>paid by the defendant under the terms of a restitution order under this Article shall be credited against any judgment rendered against the defendant in favor of the same victim in a civil action arising out of the criminal offense committed by the defendant.</p> <p>(b) The court may order the defendant to make restitution to a person other than the victim, or to any organization, corporation, or association, including the Crime Victims Compensation Fund, that provided assistance to the victim following the commission of the offense by the defendant and is subrogated to the rights of the victim. Restitution shall be made to the victim or the victim's estate before it is made to any other person, organization, corporation, or association under this subsection.</p> <p>(c) No government agency shall benefit by way of restitution except for particular damage or loss to it over and above its normal operating costs and except that the State may receive restitution for the total amount of a judgment authorized by G.S. 7A-455(b).</p> <p>(d) Repealed by S.L. 2016-78, § 6.4, eff. Dec. 1, 2016.</p> |
| <p>North Dakota</p> | <p><i>N.D. Const. art. I, § 25.</i></p> <p>1. To preserve and protect the right of crime victims to justice, to ensure crime victims a meaningful role throughout the criminal and juvenile justice systems, and to ensure that crime victims' rights and interests are respected and protected by law in a manner no less vigorous than the protections afforded to criminal defendants and delinquent children, all victims shall be entitled to the following rights, beginning at the time of their victimization:</p> <p>...</p> <p>n. The right to full and timely restitution in every case and from each offender for all losses suffered by the victim as a result of the criminal or delinquent conduct. All monies and property collected from any person who has been ordered to make restitution shall be first applied to the restitution owed to the victim before paying any amounts owed to the government.</p> <p>...</p> <p>2. The victim, the retained attorney of the victim, a lawful representative of the victim, or the attorney for the government upon request of the victim may assert and seek enforcement of the rights enumerated in this section and any other right afforded to a victim by law in any trial or appellate court, or before any other authority with jurisdiction over the case, as a matter of right. The court or other authority with jurisdiction shall act promptly on such a request, ensuring that no right is deprived without due process of law, and affording a</p> |

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| | <p>remedy by due course of law for the violation of any right. The reasons for any decision regarding disposition of a victim’s right shall be clearly stated on the record.</p> <p>3. The granting of these rights to victims shall not be construed to deny or disparage other rights possessed by victims. All provisions of this section apply throughout criminal and juvenile justice processes and are self-enabling. This section does not create any cause of action for damages against the state, any political subdivision of the state, any officer, employee, or agent of the state or of any of its political subdivisions, or any officer or employee of the court.</p> <p>4. As used in this section, a “victim” is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act or against whom the crime or delinquent act is committed. If a victim is deceased, incompetent, incapacitated, or a minor, the victim’s spouse, parent, grandparent, child, sibling, grandchild, or guardian, and any person with a relationship to the victim that is substantially similar to a listed relationship, may also exercise these rights. The term “victim” does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim.</p> <p><i>N.D. Cent. Code Ann. § 12.1-32-08 (Hearing prior to ordering restitution, reparation, or reimbursement of indigent defense costs and expenses – Conditions – Collection of restitution for insufficient funds checks – Continuing appropriation).</i></p> <p>1. Before imposing restitution or reparation as a sentence or condition of probation, the court shall hold a hearing on the matter with notice to the prosecuting attorney and to the defendant as to the nature and amount of restitution. The court, when sentencing a person adjudged guilty of criminal activities that have resulted in pecuniary damages, in addition to any other sentence the court may impose, shall order that the defendant make restitution to the victim or other recipient as determined by the court, unless the court states on the record, based upon the criteria in this subsection, the reason it does not order restitution or orders only partial restitution. Restitution must include payment to the owner of real property that is contaminated by the defendant in the manufacturing of methamphetamine for the cost of removing the contamination and returning the property to the property’s condition before contamination and to any other person that has incurred costs in decontaminating the property. In determining whether to order restitution, the court shall take into account:</p> <p>a. The reasonable damages sustained by the victim or victims of the criminal offense, which damages are limited to those directly related to the criminal offense and expenses actually incurred as a direct result of the defendant’s criminal action. This can include an amount equal to the cost of necessary and related professional services and devices relating to physical, psychiatric, and psychological care. The defendant may be required as</p> |

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| | <p>part of the sentence imposed by the court to pay the prescribed treatment costs for a victim of a sexual offense as defined in chapters 12.1-20 and 12.1-27.2.</p> <p>b. The ability of the defendant to restore the fruits of the criminal action or to pay monetary reparations, or to otherwise take action to restore the victim’s property.</p> <p>c. The likelihood that attaching a condition relating to restitution or reparation will serve a valid rehabilitational purpose in the case of the particular offender considered.</p> <p>The court shall fix the amount of restitution or reparation, which may not exceed an amount the defendant can or will be able to pay, and shall fix the manner of performance of any condition or conditions of probation established pursuant to this subsection. The court shall order restitution be paid to the division of adult services for any benefits the division has paid or may pay under chapter 54-23.4 unless the court, on the record, directs otherwise. Any payments made pursuant to the order must be deducted from damages awarded in a civil action arising from the same incident. An order that a defendant make restitution or reparation as a sentence or condition of probation may, unless the court directs otherwise, be filed, transcribed, and enforced by the person entitled to the restitution or reparation or by the division of adult services in the same manner as civil judgments rendered by the courts of this state may be enforced.</p> <p>2. When the restitution ordered by the court under subsection 1 is the result of a finding that the defendant issued a check or draft without sufficient funds or without an account, the court shall impose as costs the greater of the sum of ten dollars or an amount equal to twenty-five percent of the amount of restitution ordered. The costs imposed under this subsection, however, may not exceed one thousand dollars. The state-employed clerks of district court shall remit the funds collected as costs under this subsection to the state treasurer for deposit in the restitution collection assistance fund. The funds deposited into the restitution collection assistance fund are appropriated to the judicial branch on a continuing basis for the purpose of defraying expenses incident to the collection of restitution, including operating expenses and the compensation of additional necessary personnel. The state’s attorneys and county-employed clerks of district court shall remit the funds collected as costs under this subsection to the county treasurer to be deposited in the county general fund.</p> <p>3. The court may order the defendant to perform reasonable assigned work as a condition of probation, which assigned work need not be related to the offense charged, but must not be solely for the benefit of a private individual other than the victim.</p> <p>4. a. Under section 12.1-32-07, the court may order that the defendant reimburse indigent defense costs and expenses as a condition of probation. Unless it finds that there is no likelihood that the defendant is or will be able to pay attorney’s fees and expenses, the court, in its judgment of conviction, and in any order or amended</p> |

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| | <p>judgment following a revocation or other postjudgment proceeding, shall notify the defendant, the defendant's probation officer, and the prosecuting attorney of the presumed amount of costs and expenses to be reimbursed, as determined by the commission on legal counsel for indigents, and of the right to a hearing on the reimbursement amount. The reimbursement amount must include an application fee imposed under section 29-07-01.1 if the fee has not been paid before disposition of the case and the court has not waived payment of the fee. If the defendant or prosecutor requests a hearing within thirty days of receiving notice under this subdivision, the court shall schedule a hearing at which the actual amount of attorney's fees and expenses must be shown. In determining the amount and method of reimbursement, the court shall consider the financial resources of the defendant and the nature of the burden that reimbursement of costs and expenses will impose.</p> <p>b. A defendant who is required to reimburse indigent defense costs and expenses as a condition of probation and who is not willfully in default in that reimbursement may at any time petition the court that imposed the condition to waive reimbursement of all or any portion of the costs and expenses. If the court is satisfied that reimbursement of the amount due will impose undue hardship on the defendant or the defendant's immediate family, the court may waive reimbursement of all or any portion of the amount due or modify the method of payment.</p> <p>c. If at any time the court finds that the defendant is able to reimburse costs and expenses and has willfully failed to do so, the court may continue, modify, or enlarge the conditions of probation or revoke probation as provided in subsection 6 or 7, as applicable, of section 12.1-32-07.</p> <p>5. If the court finds that the defendant is unable to pay a fine, supervision fee, reimbursement for indigent defense costs and expenses, or restitution or reparations, the court may order the defendant to perform reasonable assigned work in lieu of all or part of a fine, a supervision fee, reimbursement for indigent defense costs and expenses, or restitution or reparations. The defendant may not perform reasonable assigned work in lieu of restitution or reparations unless the person entitled to restitution or reparations has consented in writing or on the record.</p> <p><i>N.D. Cent. Code Ann. § 12.1-34-02 (Fair treatment standards for victims and witnesses).</i> Victims and witnesses of crime must be afforded the following rights where applicable: ... 15. Victim impact statement. The victim must be informed by the prosecuting attorney, prior to sentencing, of the victim's right to submit or make a written impact statement to the court in any criminal case. If a presentence investigation is ordered, the probation officer assigned the report shall include this information in the report.</p> |

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| | <p>This statement may include an explanation by the victim of the nature and extent of any physical, psychological, or emotional harm or trauma suffered by the victim; an explanation of the extent of any economic loss or property damage suffered by the victim; an opinion of the need for and extent of restitution; and the victim’s recommendation for an appropriate sentence. The prosecuting attorney shall advise all victims that the presentence report is subject to review by the defendant and that the report will include the victim’s statement. If the sentencing court does not order a presentence investigation, the victim may submit a written impact statement, under oath, to the office of the state’s attorney which statement must be submitted to the sentencing court. The victim of violent crime may appear in court to make an oral crime impact statement at the sentencing of the defendant in appropriate circumstances at the discretion of the judge. This oral statement must be made under oath and is subject to cross-examination.</p> <p>....</p> <p><i>N.D. Cent. Code Ann. § 12.1-41-09 (Restitution).</i></p> <p>1. The court shall order a person convicted of an offense under section 12.1-41-02, 12.1-41-03, or 12.1-41-04 to pay restitution to the victim of the offense for:</p> <p>a. Expenses incurred or reasonably certain to be incurred by the victim as a result of the offense, including reasonable attorney’s fees and costs; and</p> <p>b. An amount equal to the greatest of the following, with no reduction for expenses the defendant incurred to maintain the victim:</p> <p>(1) The gross income to the defendant for, or the value to the defendant of, the victim’s labor or services or sexual activity;</p> <p>(2) The amount the defendant contracted to pay the victim; or</p> <p>(3) The value of the victim’s labor or services or sexual activity, calculated under the minimum wage and overtime provisions of the Fair Labor Standards Act, [29 U.S.C. 201 et seq.] or section 34-06-22, whichever is higher, even if the provisions do not apply to the victim’s labor or services or sexual activity.</p> <p>2. The court shall order restitution under subsection 1 even if the victim is unavailable to accept payment of restitution.</p> <p>3. If the victim does not claim restitution ordered under subsection 1 for five years after entry of the order, the restitution must be paid to the crime victims restitution and gift fund under section 54-23.4-05.</p> |
| Ohio | <i>Ohio Const. art I, § 10a (Rights of victims of crimes).</i> |

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| | <p>A) To secure for victims justice and due process throughout the criminal and juvenile justice systems, a victim shall have the following rights, which shall be protected in a manner no less vigorous than the rights afforded to the accused:</p> <ol style="list-style-type: none"> (1) to be treated with fairness and respect for the victim’s safety, dignity and privacy; (2) upon request, to reasonable and timely notice of all public proceedings involving the criminal offense or delinquent act against the victim, and to be present at all such proceedings; (3) to be heard in any public proceeding involving release, plea, sentencing, disposition, or parole, or in any public proceeding in which a right of the victim is implicated; (4) to reasonable protection from the accused or any person acting on behalf of the accused; (5) upon request, to reasonable notice of any release or escape of the accused; (6) except as authorized by section 10 of Article I of this constitution, to refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused; (7) to full and timely restitution from the person who committed the criminal offense or delinquent act against the victim; (8) to proceedings free from unreasonable delay and a prompt conclusion of the case; (9) upon request, to confer with the attorney for the government; and (10) to be informed, in writing, of all rights enumerated in this section. <p>(B) The victim, the attorney for the government upon request of the victim, or the victim’s other lawful representative, in any proceeding involving the criminal offense or delinquent act against the victim or in which the victim’s rights are implicated, may assert the rights enumerated in this section and any other right afforded to the victim by law. If the relief sought is denied, the victim or the victim’s lawful representative may petition the court of appeals for the applicable district, which shall promptly consider and decide the petition.</p> <p>(C) This section does not create any cause of action for damages or compensation against the state, any political subdivision of the state, any officer, employee, or agent of the state or of any political subdivision, or any officer of the court.</p> <p>(D) As used in this section, “victim” means a person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act. The term “victim” does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim.</p> <p>(E) All provisions of this section shall be self-executing and severable, and shall supersede all conflicting state laws.</p> <p>(F) This section shall take effect ninety days after the election at which it was approved.</p> |

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| | <p><i>Ohio Rev. Code Ann. § 2929.18 (Financial sanctions) (effective until Mar. 22, 2019).</i></p> <p>(A) Except as otherwise provided in this division and in addition to imposing court costs pursuant to section 2947.23 of the Revised Code, the court imposing a sentence upon an offender for a felony may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section or, in the circumstances specified in section 2929.32 of the Revised Code, may impose upon the offender a fine in accordance with that section. Financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:</p> <p>(1) Restitution by the offender to the victim of the offender’s crime or any survivor of the victim, in an amount based on the victim’s economic loss. If the court imposes restitution, the court shall order that the restitution be made to the victim in open court, to the adult probation department that serves the county on behalf of the victim, to the clerk of courts, or to another agency designated by the court. If the court imposes restitution, at sentencing, the court shall determine the amount of restitution to be made by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court decides to impose restitution, the court shall hold a hearing on restitution if the offender, victim, or survivor disputes the amount. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender. If the court imposes restitution, the court may order that the offender pay a surcharge of not more than five per cent of the amount of the restitution otherwise ordered to the entity responsible for collecting and processing restitution payments.</p> <p>The victim or survivor may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.</p> <p>...</p> <p>(8)(a) If an offender who is convicted of or pleads guilty to a violation of section 2905.01, 2905.02, 2907.21, 2907.22, or 2923.32, division (A)(1) or (2) of section 2907.323, or division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code also is convicted of or pleads guilty to a specification of the type described in section 2941.1422 of the Revised Code that charges that the offender knowingly committed the offense in furtherance of human trafficking, the sentencing court shall sentence the offender to a financial sanction of</p> |

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| | <p>restitution by the offender to the victim or any survivor of the victim, with the restitution including the costs of housing, counseling, and medical and legal assistance incurred by the victim as a direct result of the offense and the greater of the following:</p> <p>(i) The gross income or value to the offender of the victim’s labor or services;</p> <p>(ii) The value of the victim’s labor as guaranteed under the minimum wage and overtime provisions of the “Federal Fair Labor Standards Act of 1938,” 52 Stat. 1060, 20 U.S.C. 207, and state labor laws.</p> <p>(b) If a court imposing sentence upon an offender for a felony is required to impose upon the offender a financial sanction of restitution under division (B)(8)(a) of this section, in addition to that financial sanction of restitution, the court may sentence the offender to any other financial sanction or combination of financial sanctions authorized under this section, including a restitution sanction under division (A)(1) of this section.</p> <p>(9) In addition to any other fine that is or may be imposed under this section, the court imposing sentence upon an offender for a felony that is a sexually oriented offense or a child-victim oriented offense, as those terms are defined in section 2950.01 of the Revised Code, may impose a fine of not less than fifty nor more than five hundred dollars.</p> <p>(10) For a felony violation of division (A) of section 2921.321 of the Revised Code that results in the death of the police dog or horse that is the subject of the violation, the sentencing court shall impose upon the offender a mandatory fine from the range of fines provided under division (A)(3) of this section for a felony of the third degree. A mandatory fine imposed upon an offender under division (B)(10) of this section shall be paid to the law enforcement agency that was served by the police dog or horse that was killed in the felony violation of division (A) of section 2921.321 of the Revised Code to be used as provided in division (E)(1)(b) of that section.</p> <p>....</p> <p><i>Ohio Rev. Code Ann. § 2929.18 (Financial sanctions) (effective Mar. 22, 2019).</i></p> <p>(A) Except as otherwise provided in this division and in addition to imposing court costs pursuant to section 2947.23 of the Revised Code, the court imposing a sentence upon an offender for a felony may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section or, in the circumstances specified in section 2929.32 of the Revised Code, may impose upon the offender a fine in accordance with that section. Financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:</p> <p>(1) Restitution by the offender to the victim of the offender’s crime or any survivor of the victim, in an amount based on the victim’s economic loss. If the court imposes restitution, the court shall order that the restitution be</p> |

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| | <p>made to the victim in open court, to the adult probation department that serves the county on behalf of the victim, to the clerk of courts, or to another agency designated by the court. If the court imposes restitution, at sentencing, the court shall determine the amount of restitution to be made by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court decides to impose restitution, the court shall hold a hearing on restitution if the offender, victim, or survivor disputes the amount. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender. If the court imposes restitution, the court may order that the offender pay a surcharge of not more than five per cent of the amount of the restitution otherwise ordered to the entity responsible for collecting and processing restitution payments.</p> <p>The victim or survivor may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.</p> <p>...</p> <p>(8)(a) If an offender who is convicted of or pleads guilty to a violation of section 2905.01, 2905.02, 2907.21, 2907.22, or 2923.32, division (A)(1) or (2) of section 2907.323 involving a minor, or division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code also is convicted of or pleads guilty to a specification of the type described in section 2941.1422 of the Revised Code that charges that the offender knowingly committed the offense in furtherance of human trafficking, the sentencing court shall sentence the offender to a financial sanction of restitution by the offender to the victim or any survivor of the victim, with the restitution including the costs of housing, counseling, and medical and legal assistance incurred by the victim as a direct result of the offense and the greater of the following:</p> <ul style="list-style-type: none"> (i) The gross income or value to the offender of the victim’s labor or services; (ii) The value of the victim’s labor as guaranteed under the minimum wage and overtime provisions of the “Federal Fair Labor Standards Act of 1938,” 52 Stat. 1060, 20 U.S.C. 207, and state labor laws. <p>(b) If a court imposing sentence upon an offender for a felony is required to impose upon the offender a financial sanction of restitution under division (B)(8)(a) of this section, in addition to that financial sanction of restitution, the court may sentence the offender to any other financial sanction or combination of financial sanctions authorized under this section, including a restitution sanction under division (A)(1) of this section.</p> |

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| | <p>(9) In addition to any other fine that is or may be imposed under this section, the court imposing sentence upon an offender for a felony that is a sexually oriented offense or a child-victim oriented offense, as those terms are defined in section 2950.01 of the Revised Code, may impose a fine of not less than fifty nor more than five hundred dollars.</p> <p>(10) For a felony violation of division (A) of section 2921.321 of the Revised Code that results in the death of the police dog or horse that is the subject of the violation, the sentencing court shall impose upon the offender a mandatory fine from the range of fines provided under division (A)(3) of this section for a felony of the third degree. A mandatory fine imposed upon an offender under division (B)(10) of this section shall be paid to the law enforcement agency that was served by the police dog or horse that was killed in the felony violation of division (A) of section 2921.321 of the Revised Code to be used as provided in division (E)(1)(b) of that section.</p> <p>....</p> <p><i>Ohio Rev. Code Ann. § 2929.28 (Financial sanctions).</i></p> <p>(A) In addition to imposing court costs pursuant to section 2947.23 of the Revised Code, the court imposing a sentence upon an offender for a misdemeanor, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section. If the court in its discretion imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:</p> <p>(1) Unless the misdemeanor offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13, restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based on the victim's economic loss. The court may not impose restitution as a sanction pursuant to this division if the offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13. If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the clerk of the court on behalf of the victim.</p> <p>If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court decides to impose restitution, the court shall hold an evidentiary hearing</p> |

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| | <p>on restitution if the offender, victim, or survivor disputes the amount of restitution. If the court holds an evidentiary hearing, at the hearing the victim or survivor has the burden to prove by a preponderance of the evidence the amount of restitution sought from the offender.</p> <p>All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender. No person may introduce evidence of an award of restitution under this section in a civil action for purposes of imposing liability against an insurer under section 3937.18 of the Revised Code.</p> <p>If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than five per cent of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.</p> <p>The victim or survivor may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.</p> <p>...</p> <p>(E) Except as otherwise provided in this division, a financial sanction imposed under division (A) of this section is a judgment in favor of the state or the political subdivision that operates the court that imposed the financial sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (A)(3)(a)(i) of this section upon an offender is a judgment in favor of the entity administering the community control sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (A)(3)(a)(ii) of this section upon an offender confined in a jail or other residential facility is a judgment in favor of the entity operating the jail or other residential facility, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of restitution imposed pursuant to division (A)(1) of this section is an order in favor of the victim of the offender's criminal act that can be collected through a certificate of judgment as described in division (E)(1) of this section, through execution as described in division (E)(2) of this section, or through an order as described in division (E)(3) of this section, and the offender shall be considered for purposes of the collection as the judgment debtor.</p> <p>Once the financial sanction is imposed as a judgment or order under this division, the victim, private provider, state, or political subdivision may do any of the following:</p> <p>(1) Obtain from the clerk of the court in which the judgment was entered a certificate of judgment that shall be in the same manner and form as a certificate of judgment issued in a civil action;</p> |

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| | <p>(2) Obtain execution of the judgment or order through any available procedure, including any of the procedures identified in divisions (E)(1) and (2) of section 2929.18 of the Revised Code.</p> <p>(3) Obtain an order for the assignment of wages of the judgment debtor under section 1321.33 of the Revised Code.</p> <p>(F) The civil remedies authorized under division (E) of this section for the collection of the financial sanction supplement, but do not preclude, enforcement of the criminal sentence.</p> <p>(G) Each court imposing a financial sanction upon an offender under this section may designate the clerk of the court or another person to collect the financial sanction. The clerk, or another person authorized by law or the court to collect the financial sanction may do the following:</p> <p>(1) Enter into contracts with one or more public agencies or private vendors for the collection of amounts due under the sanction. Before entering into a contract for the collection of amounts due from an offender pursuant to any financial sanction imposed pursuant to this section, a court shall comply with sections 307.86 to 307.92 of the Revised Code.</p> <p>(2) Permit payment of all or any portion of the sanction in installments, by financial transaction device if the court is a county court or a municipal court operated by a county, by credit or debit card or by another electronic transfer if the court is a municipal court not operated by a county, or by any other reasonable method, in any time, and on any terms that court considers just, except that the maximum time permitted for payment shall not exceed five years. If the court is a county court or a municipal court operated by a county, the acceptance of payments by any financial transaction device shall be governed by the policy adopted by the board of county commissioners of the county pursuant to section 301.28 of the Revised Code. If the court is a municipal court not operated by a county, the clerk may pay any fee associated with processing an electronic transfer out of public money or may charge the fee to the offender.</p> <p>(3) To defray administrative costs, charge a reasonable fee to an offender who elects a payment plan rather than a lump sum payment of any financial sanction.</p> <p>(H) No financial sanction imposed under this section shall preclude a victim from bringing a civil action against the offender.</p> |
| <p>Oklahoma</p> | <p><i>Okla. Const. art. II, § 34 (Rights of victims).</i></p> <p>A. To secure justice and due process for victims throughout the criminal and juvenile justice systems, a victim of a crime shall have the following rights, which shall be protected by law in a manner no less vigorous than the rights afforded to the accused: to be treated with fairness and respect for the victim’s safety, dignity and</p> |

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| | <p>privacy; upon request, to reasonable and timely notice of and to be present at all proceedings involving the criminal or delinquent conduct; to be heard in any proceeding involving release, plea, sentencing, disposition, parole and any proceeding during which a right of the victim is implicated; to reasonable protection; upon request, to reasonable notice of any release or escape of an accused; to refuse an interview or other request made by the accused or any person acting on behalf of the accused, other than a refusal to appear if subpoenaed by defense counsel; to full and timely restitution; to proceedings free from unreasonable delay and a prompt conclusion of the case; upon request, to confer with the attorney for the state; and to be informed of all rights enumerated in this section.</p> <p>B. The victim, the victim’s attorney or other lawful representative, or the attorney for the state upon request of the victim may assert in any trial or appellate court, or before any other authority with jurisdiction over the case, and have enforced the rights enumerated in this section and any other right afforded to the victim by law. The court or other authority with jurisdiction shall act promptly on such a request. This section does not create any cause of action for compensation or damages against the state, any political subdivision of the state, any officer, employee or agent of the state or of any of its political subdivisions, or any officer or employee of the court.</p> <p>C. As used in this section, a “victim” includes any person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act. The term “victim” does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor or incapacitated victim.</p> <p>D. The Legislature, or the people by initiative or referendum, has the authority to enact substantive and procedural laws to implement, preserve and protect the rights guaranteed to victims by this section.</p> <p>E. The enumeration in the Constitution of certain rights for victims shall not be construed to deny or disparage other rights guaranteed by the Legislature or retained by victims.</p> <p><i>Okla. Stat. tit. 21, § 142A-2 (Victims and witnesses rights).</i></p> <p>A. The district attorney’s office shall inform the victims and witnesses of crimes of the following rights: . . .</p> <p>5. To be informed of the procedure to be followed in order to apply for and receive any restitution to which the victim is entitled; </p> <p><i>Okla. Stat. tit. 22, § 991a-3 (Restitution to buyer of property unlawfully obtained).</i></p> |

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| | <p>A. Upon a verdict or plea of guilty or upon a plea of nolo contendere for an offense in which any property is unlawfully obtained and the property is sold, traded, bartered, pledged or pawned, the court may order the defendant to provide restitution to the buyer, recipient or pledgee of the property for the value of any consideration paid, loaned or given for the property unless the buyer, recipient or pledgee has violated the provisions of Section 1092, 1093 or 1713 of Title 21 of the Oklahoma Statutes. Such restitution shall be in addition to any restitution to the victim and shall be in addition to any other penalties provided by law. Restitution to the buyer, recipient or pledgee shall be ordered pursuant to the provisions of subparagraph a of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes.</p> <p>B. The buyer of any property which has been unlawfully obtained and which is lawfully returned to its rightful owner shall have the right to bring a civil action against the person who sold, traded, bartered, pledged or pawned the property for the value of any consideration paid, loaned or given for the property unless the buyer has violated the provisions of Section 1092, 1093 or 1713 of Title 21 of the Oklahoma Statutes.</p> <p><i>Okla. Stat. tit. 22, § 991a-18 (Restitution to victim – Modification or revocation of sentence).</i></p> <p>A. The court shall at the time of sentencing:</p> <ol style="list-style-type: none"> 1. Determine whether the property may be restored in kind to the owner or the person entitled to possession thereof; 2. Determine whether defendant is possessed of sufficient skill to repair and restore property damaged; 3. Provide restitution to the victim according to a schedule of payments established by the sentencing court, together with interest upon any pecuniary sum at the rate of twelve percent (12%) per annum, if the defendant agrees to pay such restitution or, in the opinion of the court, the defendant is able to pay such restitution without imposing manifest hardship on the defendant or the immediate family of the defendant; and 4. Determine the extent of the out-of-pocket expenses, loss or damage to property and injury to the victim proximately caused by the conduct of the defendant. <p>B. The court shall allow credit for property returned in kind, for property damages ordered to be repaired by the defendant, and for property ordered to be restored by the defendant and after granting such credit, the court shall assess the actual out-of-pocket expenses, losses, damages and injuries suffered by the victim.</p> <p>C. In no event shall a victim be entitled to recover restitution in excess of the actual out-of-pocket expenses, losses, damages and injuries, proximately caused by the conduct of the defendant and restitution shall not be ordered to be paid on account of pain or suffering, provided however, that nothing in this section shall abridge or preclude any victim from the civil right to recover damages by separate civil cause of action brought against the defendant.</p> |

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| | <p>D. If the defendant fails to pay restitution in the manner or within the time period specified by the court, the court may enter an order directing the sheriff to seize any real or personal property of the defendant to the extent necessary to satisfy the order of restitution and dispose of such property by public sale. All property seized for the purposes of satisfying restitution shall be seized under the procedures established in Section 448 of this act.</p> <p>E. A sentence including provisions of restitution may be modified or revoked by the court if the offender commits another offense, or the offender fails to make restitution as ordered by the court, but no sentencing provision to make restitution shall be modified if the court finds that the offender has had the financial ability to make restitution, and the offender has willfully refused to do so. If the court shall find that the defendant has failed to make restitution and that the failure is not willful, the court may impose an additional period of time within which to make restitution. The length of said additional period shall not be more than two (2) years. The court shall retain all of the incidents of the original sentence, including the authority to revoke or further modify the sentence if the conditions of payment are violated during such additional period.</p> <p><i>Okla. Stat. tit. 22, § 991f (Restitution).</i></p> <p>A. For the purposes of any provision of Title 22 of the Oklahoma Statutes relating to criminal sentencing and restitution orders and for the Restitution and Diversion Program:</p> <ol style="list-style-type: none"> 1. “Restitution” means the sum to be paid by the defendant to the victim of the criminal act to compensate that victim for up to three times the amount of the economic loss suffered as a direct result of the criminal act of the defendant; 2. “Victim” means any person, partnership, corporation or legal entity that suffers an economic loss as a direct result of the criminal act of another person; 3. “Economic loss” means actual financial detriment suffered by the victim consisting of medical expenses actually incurred, damage to or loss of real and personal property and any other out-of-pocket expenses, including loss of earnings, reasonably incurred as the direct result of the criminal act of the defendant. No other elements of damage shall be included as an economic loss for purposes of this section. <p>B. In all criminal prosecutions and juvenile proceedings in this state, when the court enters an order directing the offender to pay restitution to any victim for economic loss or to pay to the state any fines, fees or assessments, the order, for purposes of validity and collection, shall not be limited to the maximum term of imprisonment for which the offender could have been sentenced, nor limited to any term of probation, parole, or extension thereof, nor expire until fully satisfied. The court order for restitution, fines, fees or assessments shall remain a continuing obligation of the offender until fully satisfied, and the obligation shall not be</p> |

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| | <p>considered a debt, nor shall the obligation be dischargeable in any bankruptcy proceeding. The court order shall continue in full force and effect with the supervision of the state until fully satisfied, and the state shall use all methods of collection authorized by law.</p> <p>C. 1. Upon conviction for any crime wherein property has been stolen, converted or otherwise unlawfully obtained, or its value substantially decreased as a direct result of the crime, or wherein the crime victim suffered injury, loss of income, or out-of-pocket loss, the individuals criminally responsible shall be sentenced to make restitution. Restitution may be ordered in addition to the punishments prescribed by law.</p> <p>2. The court shall order full restitution based upon the following considerations:</p> <ul style="list-style-type: none"> a. the nature and amount of restitution shall be sufficient to restore the crime victim to the equivalent economic status existing prior to the losses sustained as a direct result of the crime, and may allow the crime victim to receive payment in excess of the losses sustained; provided, the excess amount of restitution shall not be more than treble the actual economic loss incurred, and b. the amount of restitution shall be established regardless of the financial resources of the offender. <p>3. The court:</p> <ul style="list-style-type: none"> a. may direct the return of property to be made as soon as practicable and make an award of restitution in the amount of the loss of value to the property itself as a direct result of the crime, including out-of-pocket expenses and loss of earnings incurred as a result of damage to or loss of use of the property, the cost to return the property to the victim or to restore the property to its pre-crime condition whichever may be appropriate under the circumstances, b. may order restitution in a lump sum or by such schedules as may be established and thereafter adjusted by agreement consistent with the order of the court, c. shall have the authority to amend or alter any order of restitution made pursuant to this section providing that the court shall state its reasons and conclusions as a matter of record for any change or amendment to any previous order, d. may order interest upon any ordered restitution sum to accrue at the rate of twelve percent (12%) per annum until the restitution is paid in full. The court may further order such interest to be paid to the victims of the crime or proportion the interest payment between the victims and the court fund, and/or the Restitution and Diversion Program,¹ in the discretion of the court, and e. shall consider any pre-existing orders imposed on the defendant, including, but not limited to, orders imposed under civil and criminal proceedings. <p>D. If restitution to more than one person, agency or entity is set at the same time, the court shall establish the following priorities of payment:</p> |

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| | <p>1. The crime victim or victims; and</p> <p>2. Any other government agency which has provided reimbursement to the victim as a result of the offender's criminal conduct.</p> <p>E. 1. The district attorney's office shall present the crime victim's restitution claim to the court at the time of the conviction of the offender or the restitution provisions shall be included in the written plea agreement presented to the court, in which case, the restitution claim shall be reviewed by the judge prior to acceptance of the plea agreement.</p> <p>2. At the initiation of the prosecution of the defendant, the district attorney's office shall provide all identifiable crime victims with written and oral information explaining their rights and responsibilities to receive restitution established under this section.</p> <p>3. The district attorney's office shall provide all crime victims, regardless of whether the crime victim makes a specific request, with an official request for restitution form to be completed and signed by the crime victim, and to include all invoices, bills, receipts, and other evidence of injury, loss of earnings and out-of-pocket loss. This form shall be filed with any victim impact statement to be included in the judgment and sentence. Every crime victim receiving the restitution claim form shall be provided assistance and direction to properly complete the form.</p> <p>4. The official restitution request form shall be presented in all cases regardless of whether the case is brought to trial. In a plea bargain, the district attorney in every case where the victim has suffered economic loss, shall, as a part of the plea bargain, require that the offender pay restitution to the crime victim. The district attorney shall be authorized to act as a clearing house for collection and disbursement of restitution payments made pursuant to this section, and shall assess a fee of One Dollar (\$1.00) per payment received from the defendant, except when the defendant is sentenced to incarceration in the Department of Corrections.</p> <p>F. The crime victim shall provide all documentation and evidence of compensation or reimbursement from insurance companies or agencies of this state, any other state, or the federal government received as a direct result of the crime for injury, loss of earnings or out-of-pocket loss.</p> <p>G. The court shall, upon motion by the crime victim, redact from the submitted documentation all personal information relating to the crime victim that does not directly and necessarily establish the authenticity of any document or substantiate the asserted amount of the restitution claim.</p> <p>H. The unexcused failure or refusal of the crime victim to provide all or part of the requisite information prior to the sentencing, unless disclosure is deferred by the court, shall constitute a waiver of any grounds to appeal or seek future amendment or alteration of the restitution order predicated on the undisclosed available information. The court shall order the offender to submit either as part of the pre-sentence investigation or</p> |

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| | <p>assessment and evaluation required for a community sentence or, if no pre-sentence investigation is conducted, in advance of the sentencing proceeding such information as the court may direct and finds necessary to be disclosed for the purpose of ascertaining the type and manner of restitution to be ordered.</p> <p>I. The willful failure or refusal of the offender to provide all or part of the requisite information prior to the sentencing, unless disclosure is deferred by the court shall not deprive the court of the authority to set restitution or set the schedule of payment. The willful failure or refusal of the offender to provide all or part of the requisite information prior to the sentencing, unless disclosure is deferred by the court, shall constitute a waiver of any grounds to appeal or seek future amendment or alteration of the restitution order predicated on the undisclosed information. The willful failure or refusal of the offender to provide all or part of the requisite information prior to sentencing, unless disclosure is deferred by the court, shall constitute an act of contempt.</p> <p>J. The court shall conduct such hearings or proceedings as it deems necessary to set restitution and payment schedules at the time of sentencing or may bifurcate the sentencing and defer the hearing or proceedings relating to the imposition of restitution as justice may require. Amendments or alterations to the restitution order may be made upon the court’s own motion, petition by the crime victim or petition by the offender.</p> <p>K. An offender who files a meritless or frivolous petition for amendment or alteration to the restitution order shall pay the costs of the proceeding on the petition and shall have added to the existing restitution order the additional loss of earnings and out-of-pocket loss incurred by the crime victim in responding to the petition.</p> <p>L. The restitution request form shall be promulgated by the District Attorneys Council and provided to all district attorney offices.</p> <p>M. If a defendant who is financially able refuses or neglects to pay restitution as ordered by this section, payment may be enforced:</p> <ol style="list-style-type: none"> 1. By contempt of court as provided in subsection A of Section 566 of Title 21 of the Oklahoma Statutes with imprisonment or fine or both; 2. In the same manner as prescribed in subsection N of this section for a defendant who is without means to make such restitution payment; or 3. Revocation of the criminal sentence if the sentence imposed was a suspended or deferred sentence or a community sentence. <p>N. If the defendant is without means to pay the restitution, the judge may direct the total amount due, or any portion thereof, to be entered upon the court minutes and to be certified in the district court of the county where it shall then be entered upon the district court judgment docket and shall have the full force and effect of a district court judgment in a civil case. Thereupon the same remedies shall be available for the enforcement of</p> |

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| | <p>the judgment as are available to enforce other judgments; provided, however, the judgment herein prescribed shall not be considered a debt nor dischargeable in any bankruptcy proceeding.</p> <p>O. Whenever a person has been ordered to pay restitution as provided in this section or any section of the Oklahoma Statutes for a criminal penalty, the judge may order the defendant to a term of community service, with or without compensation, to be credited at a rate of Five Dollars (\$5.00) per day against the total amount due for restitution. If the defendant fails to perform the required community service authorized by this subsection or if the conditions of community service are violated, the judge may impose a term of imprisonment not to exceed five (5) days in the county jail for each failure to comply.</p> <p>P. Nothing in subsections M through O of this section shall be construed to be additions to the original criminal penalty, but shall be used by the court as sanctions and means of collection for criminal restitution orders and restitution orders that have been reduced to judgment.</p> |
| Oregon | <p><i>Or. Const. art. I, § 42 (Rights of victim in criminal prosecutions and juvenile court delinquency proceedings).</i></p> <p>(1) To preserve and protect the right of crime victims to justice, to ensure crime victims a meaningful role in the criminal and juvenile justice systems, to accord crime victims due dignity and respect and to ensure that criminal and juvenile court delinquency proceedings are conducted to seek the truth as to the defendant's innocence or guilt, and also to ensure that a fair balance is struck between the rights of crime victims and the rights of criminal defendants in the course and conduct of criminal and juvenile court delinquency proceedings, the following rights are hereby granted to victims in all prosecutions for crimes and in juvenile court delinquency proceedings:</p> <p>...</p> <p>(d) The right to receive prompt restitution from the convicted criminal who caused the victim's loss or injury;</p> <p>...</p> <p>(2) This section applies to all criminal and juvenile court delinquency proceedings pending or commenced on or after the effective date of this section. Nothing in this section reduces a criminal defendant's rights under the Constitution of the United States. Except as otherwise specifically provided, this section supersedes any conflicting section of this Constitution. Nothing in this section is intended to create any cause of action for compensation or damages nor may this section be used to invalidate an accusatory instrument, conviction or adjudication or otherwise terminate any criminal or juvenile delinquency proceedings at any point after the case is commenced or on appeal. Except as otherwise provided in subsections (3) and (4) of this section, nothing in</p> |

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| | <p>this section may be used to invalidate a ruling of a court or to suspend any criminal or juvenile delinquency proceedings at any point after the case is commenced.</p> <p>(3)(a) Every victim described in paragraph (c) of subsection (6) of this section shall have remedy by due course of law for violation of a right established in this section.</p> <p>(b) A victim may assert a claim for a right established in this section in a pending case, by a mandamus proceeding if no case is pending or as otherwise provided by law.</p> <p>(c) The Legislative Assembly may provide by law for further effectuation of the provisions of this subsection, including authorization for expedited and interlocutory consideration of claims for relief and the establishment of reasonable limitations on the time allowed for bringing such claims.</p> <p>(d) No claim for a right established in this section shall suspend a criminal or juvenile delinquency proceeding if such a suspension would violate a right of a criminal defendant guaranteed by this Constitution or the Constitution of the United States.</p> <p>(4) Upon the victim’s request, the prosecuting attorney, in the attorney’s discretion, may assert and enforce a right established in this section.</p> <p>(5) Upon the filing by the prosecuting attorney of an affidavit setting forth cause, a court shall suspend the rights established in this section in any case involving organized crime or victims who are minors.</p> <p>(6) As used in this section:</p> <p>(a) “Convicted criminal” includes a youth offender in juvenile court delinquency proceedings.</p> <p>(b) “Criminal defendant” includes an alleged youth offender in juvenile court delinquency proceedings.</p> <p>(c) “Victim” means any person determined by the prosecuting attorney or the court to have suffered direct financial, psychological or physical harm as a result of a crime and, in the case of a victim who is a minor, the legal guardian of the minor.</p> <p>(d) “Violent felony” means a felony in which there was actual or threatened serious physical injury to a victim or a felony sexual offense.</p> <p>(7) In the event that no person has been determined to be a victim of the crime, the people of Oregon, represented by the prosecuting attorney, are considered to be the victims. In no event is it intended that the criminal defendant be considered the victim.</p> <p><i>Or. Rev. Stat. Ann. § 31.710 (Awards for noneconomic damages; “economic damages”, “noneconomic damages” defined).</i></p> <p>(1) Except for claims subject to ORS 30.260 to 30.300 and ORS chapter 656, in any civil action seeking damages arising out of bodily injury, including emotional injury or distress, death or property damage of any</p> |

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| | <p>one person including claims for loss of care, comfort, companionship and society and loss of consortium, the amount awarded for noneconomic damages shall not exceed \$500,000.</p> <p>(2) As used in this section:</p> <p>(a) “Economic damages” means objectively verifiable monetary losses including but not limited to reasonable charges necessarily incurred for medical, hospital, nursing and rehabilitative services and other health care services, burial and memorial expenses, loss of income and past and future impairment of earning capacity, reasonable and necessary expenses incurred for substitute domestic services, recurring loss to an estate, damage to reputation that is economically verifiable, reasonable and necessarily incurred costs due to loss of use of property and reasonable costs incurred for repair or for replacement of damaged property, whichever is less.</p> <p>(b) “Noneconomic damages” means subjective, nonmonetary losses, including but not limited to pain, mental suffering, emotional distress, humiliation, injury to reputation, loss of care, comfort, companionship and society, loss of consortium, inconvenience and interference with normal and usual activities apart from gainful employment.</p> <p>(3) This section does not apply to punitive damages.</p> <p>(4) The jury shall not be advised of the limitation set forth in this section.</p> <p><i>Or. Rev. Stat. Ann. § 137.103 (Definitions).</i></p> <p>As used in ORS 137.101 to 137.109:</p> <p>(1) “Criminal activities” means any offense with respect to which the defendant is convicted or any other criminal conduct admitted by the defendant.</p> <p>(2) “Economic damages”:</p> <p>(a) Has the meaning given that term in ORS 31.710, except that “economic damages” does not include future impairment of earning capacity; and</p> <p>(b) In cases involving criminal activities described in ORS 163.263, 163.264 or 163.266, includes the greater of:</p> <p>(A) The value to the defendant of the victim’s services as defined in ORS 163.261; or</p> <p>(B) The value of the victim’s services, as defined in ORS 163.261, computed using the minimum wage established under ORS 653.025 and the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).</p> <p>(3) “Restitution” means full, partial or nominal payment of economic damages to a victim. Restitution is independent of and may be awarded in addition to a compensatory fine awarded under ORS 137.101.</p> <p>(4) “Victim” means:</p> |

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| | <p>(a) The person or decedent against whom the defendant committed the criminal offense, if the court determines that the person or decedent has suffered or did suffer economic damages as a result of the offense.</p> <p>(b) Any person not described in paragraph (a) of this subsection whom the court determines has suffered economic damages as a result of the defendant’s criminal activities.</p> <p>(c) The Criminal Injuries Compensation Account, if it has expended moneys on behalf of a victim described in paragraph (a) of this subsection.</p> <p>(d) An insurance carrier, if it has expended moneys on behalf of a victim described in paragraph (a) of this subsection.</p> <p>(e) Upon the death of a victim described in paragraph (a) or (b) of this subsection, the estate of the victim.</p> <p>(f) The estate, successor in interest, trustee, successor trustee or beneficiary of a trust against which the defendant committed the criminal offense, if the court determines that the estate, successor in interest, trust, trustee, successor trustee or beneficiary of a trust suffered economic damages as a result of the offense.</p> <p>(5) “Victim” does not include any coparticipant in the defendant’s criminal activities.</p> <p><i>Or. Rev. Stat. Ann. § 137.106 (Restitution of victims).</i></p> <p>(1)(a) When a person is convicted of a crime, or a violation as described in ORS 153.008, that has resulted in economic damages, the district attorney shall investigate and present to the court, at the time of sentencing or within 90 days after entry of the judgment, evidence of the nature and amount of the damages. The court may extend the time by which the presentation must be made for good cause. If the court finds from the evidence presented that a victim suffered economic damages, in addition to any other sanction it may impose, the court shall enter a judgment or supplemental judgment requiring that the defendant pay the victim restitution in a specific amount that equals the full amount of the victim’s economic damages as determined by the court. The lien, priority of the lien and ability to enforce the specific amount of restitution established under this paragraph by a supplemental judgment relates back to the date of the original judgment that is supplemented.</p> <p>(b) Notwithstanding paragraph (a) of this subsection, a court may order that the defendant pay the victim restitution in a specific amount that is less than the full amount of the victim’s economic damages only if:</p> <p>(A) The victim or, if the victim is an estate, successor in interest, trust or other entity, an authorized representative of the victim consents to the lesser amount, if the conviction is not for a person felony; or</p> <p>(B) The victim or, if the victim is an estate, successor in interest, trust or other entity, an authorized representative of the victim consents in writing to the lesser amount, if the conviction is for a person felony.</p> <p>(c) As used in this subsection, “person felony” has the meaning given that term in the rules of the Oregon Criminal Justice Commission.</p> |

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| | <p>(2) After the district attorney makes a presentation described in subsection (1) of this section, if the court is unable to find from the evidence presented that a victim suffered economic damages, the court shall make a finding on the record to that effect.</p> <p>(3) No finding made by the court or failure of the court to make a finding under this section limits or impairs the rights of a person injured to sue and recover damages in a civil action as provided in ORS 137.109.</p> <p>(4)(a) If a judgment or supplemental judgment described in subsection (1) of this section includes restitution, a court may delay the enforcement of the monetary sanctions, including restitution, only if the defendant alleges and establishes to the satisfaction of the court the defendant’s inability to pay the judgment in full at the time the judgment is entered. If the court finds that the defendant is unable to pay, the court may establish or allow an appropriate supervising authority to establish a payment schedule, taking into consideration the financial resources of the defendant and the burden that payment of restitution will impose, with due regard to the other obligations of the defendant. The supervising authority shall be authorized to modify any payment schedule established under this section.</p> <p>(b) As used in this subsection, “supervising authority” means any state or local agency that is authorized to supervise the defendant.</p> <p>(5) If the defendant objects to the imposition, amount or distribution of the restitution, the court shall allow the defendant to be heard on such issue at the time of sentencing or at the time the court determines the amount of restitution.</p> <p>(6)(a) At least 10 days prior to the presentation described in subsection (1) of this section, the district attorney shall:</p> <p>(A) Disclose to the defendant the names of any witnesses that may be called during the presentation; and</p> <p>(B) Provide the defendant with copies of, or allow the defendant to inspect, any exhibits that will be used or introduced during the presentation.</p> <p>(b) If the court finds that the district attorney has violated the requirements of this subsection, the court shall grant a continuance to allow additional time for preparation upon request of the defendant. Any additional time granted under this paragraph may not count toward the 90-day time limitation described in subsection (1) of this section.</p> <p><i>Or. Rev. Stat. Ann. § 137.108 (Driving while under the influence of intoxicants diversion program; restitution).</i></p> <p>(1) When a person has entered into a driving while under the influence of intoxicants diversion agreement and the person’s actions resulted in economic damages, the district attorney shall investigate and present to the</p> |

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| | <p>court within 90 days of when the diversion agreement is entered, evidence of the nature and amount of the damages.</p> <p>If the court finds from the evidence presented that a victim suffered economic damages, the court shall order the defendant to pay restitution and include in the diversion agreement one of the following:</p> <p>(a) A requirement that the defendant pay the victim restitution in a specific amount that equals the full amount of the victim’s economic damages as determined by the court.</p> <p>(b) A requirement that the defendant pay the victim restitution in a specific amount that is less than the full amount of the victim’s economic damages, with the consent of the victim.</p> <p>(2) After the district attorney makes a presentation described in subsection (1) of this section, if the court is unable to find from the evidence presented that a victim suffered economic damages, the court shall make a finding on the record to that effect.</p> <p>(3) A finding made by the court under this section, or a failure of the court to make a finding, does not limit or impair the right of a person injured to sue and recover damages in a civil action as provided in ORS 137.109.</p> <p>(4) If the defendant objects to the imposition, amount or distribution of the restitution, the court shall allow the defendant to be heard on such issue at the time the court determines the amount of restitution.</p> <p>(5) As used in this section, “victim” includes any person the court determines has suffered economic damages as a result of the act that has brought the defendant before the court for the purpose of entering into a driving while under the influence of intoxicants diversion agreement.</p> |
| <p>Pennsylvania</p> | <p><i>18 Pa. Cons. Stat. Ann. § 11.201 (Rights).</i> Victims of crime have the following rights: . . . (6) To be restored, to the extent possible, to the precrime economic status through the provision of restitution, compensation and the expeditious return of property which is seized as evidence in the case when in the judgment of the prosecutor the evidence is no longer needed for prosecution of the case. </p> <p><i>18 Pa. Cons. Stat. Ann. § 1106 (Restitution for injuries to person or property).</i> (a) General rule.--Upon conviction for any crime wherein: (1) property of a victim has been stolen, converted or otherwise unlawfully obtained, or its value substantially decreased as a direct result of the crime; or</p> |

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| | <p>(2) the victim, if an individual, suffered personal injury directly resulting from the crime, the offender shall be sentenced to make restitution in addition to the punishment prescribed therefor.</p> <p>(b) Condition of probation or parole.--Whenever restitution has been ordered pursuant to subsection (a) and the offender has been placed on probation or parole, the offender's compliance with such order may be made a condition of such probation or parole.</p> <p>(c) Mandatory restitution.--</p> <p>(1) The court shall order full restitution:</p> <p>(i) Regardless of the current financial resources of the defendant, so as to provide the victim with the fullest compensation for the loss. The court shall not reduce a restitution award by any amount that the victim has received from the Crime Victim's Compensation Board or other government agency but shall order the defendant to pay any restitution ordered for loss previously compensated by the board to the Crime Victim's Compensation Fund or other designated account when the claim involves a government agency in addition to or in place of the board. The court shall not reduce a restitution award by any amount that the victim has received from an insurance company but shall order the defendant to pay any restitution ordered for loss previously compensated by an insurance company to the insurance company.</p> <p>(ii) If restitution to more than one victim is set at the same time, the court shall set priorities of payment. However, when establishing priorities, the court shall order payment in the following order:</p> <p>(A) Any individual.</p> <p>(A.1) Any affected government agency.</p> <p>(B) The Crime Victim's Compensation Board.</p> <p>(C) Any other government agency which has provided reimbursement to the victim as a result of the defendant's criminal conduct.</p> <p>(D) Any insurance company which has provided reimbursement to the victim as a result of the defendant's criminal conduct.</p> <p>(E) Any estate or testamentary trust.</p> <p>(F) Any business entity organized as a nonprofit or not-for-profit entity.</p> <p>(G) Any other business entity.</p> <p>(2) At the time of sentencing the court shall specify the amount and method of restitution. In determining the amount and method of restitution, the court:</p> <p>(i) Shall consider the extent of injury suffered by the victim, the victim's request for restitution as presented to the district attorney in accordance with paragraph (4) and such other matters as it deems appropriate.</p> |

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| | <p>(ii) May order restitution in a lump sum, by monthly installments or according to such other schedule as it deems just.</p> <p>(iii) Shall not order incarceration of a defendant for failure to pay restitution if the failure results from the offender's inability to pay.</p> <p>(iv) Shall consider any other preexisting orders imposed on the defendant, including, but not limited to, orders imposed under this title or any other title.</p> <p>(3) The court may, at any time or upon the recommendation of the district attorney that is based on information received from the victim and the probation section of the county or other agent designated by the county commissioners of the county with the approval of the president judge to collect restitution, alter or amend any order of restitution made pursuant to paragraph (2), provided, however, that the court states its reasons and conclusions as a matter of record for any change or amendment to any previous order.</p> <p>(4) (i) It shall be the responsibility of the district attorneys of the respective counties to make a recommendation to the court at or prior to the time of sentencing as to the amount of restitution to be ordered. This recommendation shall be based upon information solicited by the district attorney and received from the victim.</p> <p>(ii) Where the district attorney has solicited information from the victims as provided in subparagraph (i) and has received no response, the district attorney shall, based on other available information, make a recommendation to the court for restitution.</p> <p>(iii) The district attorney may, as appropriate, recommend to the court that the restitution order be altered or amended as provided in paragraph (3).</p> <p>(d) Limitations on district justices.--Restitution ordered by a magisterial district judge shall be limited to the return of the actual property or its undisputed dollar amount or, where the claim for restitution does not exceed the civil jurisdictional limit specified in 42 Pa.C.S. § 1515(a)(3) (relating to jurisdiction) and is disputed as to amount, the magisterial district judge shall determine and order the dollar amount of restitution to be made.</p> <p>(e) Restitution payments and records.--Restitution, when ordered by a judge, shall be made by the offender to the probation section of the county in which he was convicted or to another agent designated by the county commissioners with the approval of the president judge of the county to collect restitution according to the order of the court or, when ordered by a magisterial district judge, shall be made to the magisterial district judge. The probation section or other agent designated by the county commissioners of the county with the approval of the president judge to collect restitution and the magisterial district judge shall maintain records of the restitution order and its satisfaction and shall forward to the victim the property or payments made pursuant to the restitution order.</p> |

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| | <p>(f) Noncompliance with restitution order.--Whenever the offender shall fail to make restitution as provided in the order of a judge, the probation section or other agent designated by the county commissioners of the county with the approval of the president judge to collect restitution shall notify the court within 20 days of such failure. Whenever the offender shall fail to make restitution within 20 days to a magisterial district judge, as ordered, the magisterial district judge shall declare the offender in contempt and forward the case to the court of common pleas. Upon such notice of failure to make restitution, or upon receipt of the contempt decision from a magisterial district judge, the court shall order a hearing to determine if the offender is in contempt of court or has violated his probation or parole.</p> <p>(g) Preservation of private remedies.--No judgment or order of restitution shall debar the victim, by appropriate action, to recover from the offender as otherwise provided by law, provided that any civil award shall be reduced by the amount paid under the criminal judgment.</p> <p>(h) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:</p> <p>“Affected government agency.” The Commonwealth, a political subdivision or local authority that has sustained injury to property.</p> <p>“Business entity.” A domestic or foreign:</p> <ol style="list-style-type: none"> (1) business corporation; (2) nonprofit corporation; (3) general partnership; (4) limited partnership; (5) limited liability company; (6) unincorporated nonprofit association; (7) professional association; or (8) business trust, common law business trust or statutory trust. <p>“Crime.” Any offense punishable under this title or by a magisterial district judge.</p> <p>“Injury to property.” Loss of real or personal property, including negotiable instruments, or decrease in its value, directly resulting from the crime.</p> <p>“Insurance company.” An entity that compensates a victim for loss under an insurance contract.</p> <p>“Insurance contract.” A contract governed by the insurance laws of the state in which it was issued or a plan of benefits sponsored by an employer or employee organization.</p> <p>“Offender.” Any person who has been found guilty of any crime.</p> <p>“Personal injury.” Actual bodily harm, including pregnancy, directly resulting from the crime.</p> |

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| | <p>“Property.” Any real or personal property, including currency and negotiable instruments, of the victim.</p> <p>“Restitution.” The return of the property of the victim or payments in cash or the equivalent thereof pursuant to an order of the court.</p> <p>“Victim.” As defined in section 103 of the act of November 24, 1998 (P.L. 882, No. 111), known as the Crime Victims Act.1 The term includes an affected government agency, the Crime Victim’s Compensation Fund, if compensation has been paid by the Crime Victim’s Compensation Fund to the victim, any insurance company that has compensated the victim for loss under an insurance contract and any business entity.</p> <p><i>18 Pa. Cons. Stat. Ann. § 1107.1 (Restitution for identity theft).</i></p> <p>a) General rule.--The court shall, in addition to any other restitution sentence or order authorized by law, sentence a person convicted of a violation of section 4106 (relating to access device fraud) or 4120 (relating to identity theft) to make restitution for all reasonable expenses incurred by the victim or on the victim’s behalf:</p> <ol style="list-style-type: none"> (1) to investigate theft of the victim’s identity; (2) to bring or defend civil or criminal actions related to theft of the victim’s identity; or (3) to take other efforts to correct the victim’s credit record or negative credit reports related to theft of the victim’s identity. <p>(b) Types of expenses.--The types of expenses recoverable under this section include, but are not limited to:</p> <ol style="list-style-type: none"> (1) fees for professional services by attorneys or accountants; (2) fees and costs imposed by credit bureaus, associated with efforts to correct the victim’s credit record, incurred in private investigations or associated with contesting unwarranted debt collections; and (3) court costs and filing fees. <p><i>18 Pa. Cons. Stat. Ann. § 3020 (Restitution).</i></p> <p>In addition to the provisions of section 1106 (relating to restitution for injuries to person or property), the following shall apply:</p> <ol style="list-style-type: none"> (1) A person who violates this chapter shall be ineligible to receive restitution. (2) The following items may be included in an order of restitution: <ol style="list-style-type: none"> (i) For the period during which the victim of human trafficking was engaged in involuntary servitude, the greater of the following: <ol style="list-style-type: none"> (A) The value of the victim’s time during the period of involuntary servitude as guaranteed under the minimum wage and overtime provisions of the laws of this Commonwealth. (B) The gross income or value to the defendant of the services of the victim. |

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| | <p>(C) The amount the victim was promised or the amount an individual in the position of the victim would have reasonably expected to earn. This clause shall not apply to the amount an individual would have reasonably expected to earn in an illegal activity.</p> <p>(ii) The return of property of the victim of human trafficking, cost of damage to the property or the replacement value of the property if taken, destroyed or damaged beyond repair as a result of human trafficking.</p> <p>(3) Collection and distribution of restitution payments shall be governed by the provisions of 42 Pa.C.S. §§ 9728 (relating to collection of restitution, reparation, fees, costs, fines and penalties), 9730 (relating to payment of court costs, restitution and fines) and 9730.1 (relating to collection of court costs, restitution and fines by private collection agency).</p> <p><i>18 Pa. Cons. Stat. Ann. § 7603 (Restitution).</i> Upon conviction of an offense under section 7611 (relating to unlawful use of computer and other computer crimes), 7612 (relating to disruption of service) or 7616 (relating to distribution of computer virus), the sentence shall include an order for restitution to the victim for:</p> <ol style="list-style-type: none"> (1) the cost of repairing or replacing the affected computer, computer system, computer network, computer software, computer program, computer database, World Wide Web site or telecommunication device; (2) lost profits for the period that the computer, computer system, computer network, computer software, computer program, computer database, World Wide Web site or telecommunication device is not usable; or (3) the cost of replacing or restoring the data lost or damaged as a result of a violation of section 7611, 7612 or 7616. <p><i>42 Pa. Cons. Stat. Ann. § 9721 (Sentencing generally).</i></p> <p>(a) General rule.--In determining the sentence to be imposed the court shall, except as provided in subsection (a.1), consider and select one or more of the following alternatives, and may impose them consecutively or concurrently:</p> <ol style="list-style-type: none"> (1) An order of probation. (2) A determination of guilt without further penalty. (3) Partial confinement. (4) Total confinement. (5) A fine. (6) County intermediate punishment. (7) State intermediate punishment. |

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| | <p>(a.1) Exception.--</p> <p>(1) Unless specifically authorized under section 9763 (relating to a sentence of county intermediate punishment) or 61 Pa.C.S. Ch. 41 (relating to State intermediate punishment), subsection (a) shall not apply where a mandatory minimum sentence is otherwise provided by law.</p> <p>(2) An eligible offender may be sentenced to State intermediate punishment pursuant to subsection (a)(7) and as described in 61 Pa.C.S. Ch. 41 or to State motivational boot camp as described in 61 Pa. C.S. Ch. 39 (relating to motivational boot camp), even if a mandatory minimum sentence would otherwise be provided by law.</p> <p>(3) An eligible offender may be sentenced to total confinement pursuant to subsection (a)(4) and a recidivism risk reduction incentive minimum sentence pursuant to section 9756(b.1) (relating to sentence of total confinement), even if a mandatory minimum sentence would otherwise be provided by law.</p> <p>(b) General standards.--In selecting from the alternatives set forth in subsection (a), the court shall follow the general principle that the sentence imposed should call for confinement that is consistent with the protection of the public, the gravity of the offense as it relates to the impact on the life of the victim and on the community, and the rehabilitative needs of the defendant. The court shall also consider any guidelines for sentencing and resentencing adopted by the Pennsylvania Commission on Sentencing and taking effect under section 2155 (relating to publication of guidelines for sentencing, resentencing and parole and recommitment ranges following revocation).¹ In every case in which the court imposes a sentence for a felony or misdemeanor, modifies a sentence, resents an offender following revocation of probation, county intermediate punishment or State intermediate punishment or resents following remand, the court shall make as a part of the record, and disclose in open court at the time of sentencing, a statement of the reason or reasons for the sentence imposed. In every case where the court imposes a sentence or resentence outside the guidelines adopted by the Pennsylvania Commission on Sentencing under sections 2154 (relating to adoption of guidelines for sentencing), 2154.1 (relating to adoption of guidelines for county intermediate punishment), 2154.2 (relating to adoption of guidelines for State intermediate punishment), 2154.3 (relating to adoption of guidelines for fines), 2154.4 (relating to adoption of guidelines for resentencing) and 2154.5 (relating to adoption of guidelines for parole) and made effective under section 2155, the court shall provide a contemporaneous written statement of the reason or reasons for the deviation from the guidelines to the commission, as established under section 2153(a)(14) (relating to powers and duties). Failure to comply shall be grounds for vacating the sentence or resentence and resentencing the defendant.</p> <p>(c) Mandatory restitution.--In addition to the alternatives set forth in subsection (a) of this section the court shall order the defendant to compensate the victim of his criminal conduct for the damage or injury that he</p> |

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| | <p>sustained. For purposes of this subsection, the term “victim” shall be as defined in section 479.1 of the act of April 9, 1929 (P.L. 177, No. 175), known as The Administrative Code of 1929.2</p> <p>(c.1) Mandatory payment of costs.--Notwithstanding the provisions of section 9728 (relating to collection of restitution, reparation, fees, costs, fines and penalties) or any provision of law to the contrary, in addition to the alternatives set forth in subsection (a), the court shall order the defendant to pay costs. In the event the court fails to issue an order for costs pursuant to section 9728, costs shall be imposed upon the defendant under this section. No court order shall be necessary for the defendant to incur liability for costs under this section. The provisions of this subsection do not alter the court’s discretion under Pa.R.Crim.P. No. 706(C) (relating to fines or costs).</p> <p>(d) Detailed criteria.--With respect to each alternative the criteria to be considered by the court are set forth in this subchapter.</p> <p>(e) Term of imprisonment.--All sentences of imprisonment imposed under this chapter shall be for a definite term.</p> |
| <p>Rhode Island</p> | <p><i>R.I. Const. art. I, § 23 (Rights of victims of crime).</i> A victim of crime shall, as a matter of right, be treated by agents of the state with dignity, respect and sensitivity during all phases of the criminal justice process. Such person shall be entitled to receive, from the perpetrator of the crime, financial compensation for any injury or loss caused by the perpetrator of the crime, and shall receive such other compensation as the state may provide. Before sentencing, a victim shall have the right to address the court regarding the impact which the perpetrator’s conduct has had upon the victim.</p> <p><i>11 R.I. Gen. Laws Ann. § 11-67.1-10 (Restitution).</i> (a) The court shall order a person convicted of an offense under §§ 11-67.1-3, 11-67.1-4, or 11-67.1-5 to pay restitution to the victim of the offense for: (1) Expenses incurred or reasonably certain to be incurred by the victim as a result of the offense, including reasonable attorneys’ fees and costs; and (2) An amount equal to the greatest of the following, with no reduction for expenses the defendant incurred to maintain the victim: (i) The gross income to the defendant for, or the value to the defendant of, the victim’s labor or services or sexual activity; (ii) The amount the defendant contracted to pay the victim; or</p> |

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| | <p>(iii) The value of the victim’s labor or services or sexual activity, calculated under the minimum-wage and overtime provisions of the “Fair Labor Standards Act”, 29 U.S.C. § 201 et seq., or subsection (a)(2) of this section, whichever is greater, even if the provisions do not apply to the victim’s labor or services or sexual activity.</p> <p>(b) The court shall order restitution under subsection (a) of this section even if the victim is unavailable to accept payment of restitution.</p> <p>(c) If the victim does not claim restitution ordered under subsection (a) of this section for five (5) years after entry of the order, the restitution must be paid to the criminal injuries compensation fund, as established in chapter 25 of title 12.</p> <p><i>12 R.I. Gen. Laws Ann. § 12-19-32 (Restitution).</i></p> <p>In addition to or in lieu of any non-mandatory sanction imposed as part of a sentence or as a condition of probation, a judge at the time of sentencing may order restitution which may be in the form of monetary payment or some type of community restitution. Provided, that any person sentenced to a period of incarceration at the adult correctional institutions shall be ineligible to participate in those programs established pursuant to chapter 8 of title 13, sections 42-56-20.2, 42-56-20.3 or 42-56-21, unless and until the restitution has been paid in full, or satisfactory arrangements have been made with the court if the person has the ability to pay. Any agreement shall be in writing and it shall be the burden of the person seeking to participate in any of the programs to satisfy the appropriate authority of compliance. Any person subject to the provisions of this chapter may request an ability to pay hearing by filing the request with the court which imposed the original sentence.</p> <p><i>12 R.I. Gen. Laws Ann. § 12-28-3 (General rights).</i></p> <p>(a) Each victim of a criminal offense who makes a timely report of the crime and who cooperates with law enforcement authorities in the investigation and prosecution of the offense shall have the following rights:</p> <p>...</p> <p>(15) To be informed by the prosecuting officer of the right to request that restitution be an element of the final disposition of a case.</p> <p>....</p> <p><i>12 R.I. Gen. Laws Ann. § 12-28-5.1 (Restitution).</i></p> |

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| | <p>When the court orders a defendant to make financial restitution to the victim of a crime of which the defendant has been convicted or to which the defendant has pleaded guilty or nolo contendere, a civil judgment shall automatically be entered by the trial court against the defendant on behalf of the victim for that amount. If payment is not made by the defendant within the period set by the court, the civil judgment for the amount of the restitution ordered, plus interest at the statutory amount from the date of the offense, plus costs of suit, including reasonable attorney’s fees, shall be enforceable by any and all means presently available in law for the collection of delinquent judgments in civil cases generally.</p> |
| <p>South Carolina</p> | <p><i>S.C. Const. art. I, § 24 (Victims’ Bill of Rights).</i></p> <p>(A) To preserve and protect victims’ rights to justice and due process regardless of race, sex, age, religion, or economic status, victims of crime have the right to:</p> <p>...</p> <p>(9) receive prompt and full restitution from the person or persons convicted of the criminal conduct that caused the victim’s loss or injury, including both adult and juvenile offenders;</p> <p>...</p> <p>(B) Nothing in this section creates a civil cause of action on behalf of any person against any public employee, public agency, the State, or any agency responsible for the enforcement of rights and provision of services contained in this section. The rights created in this section may be subject to a writ of mandamus, to be issued by any justice of the Supreme Court or circuit court judge to require compliance by any public employee, public agency, the State, or any agency responsible for the enforcement of the rights and provisions of these services contained in this section, and a wilful failure to comply with a writ of mandamus is punishable as contempt.</p> <p>(C) For purposes of this section:</p> <p>(1) A victim’s exercise of any right granted by this section is not grounds for dismissing any criminal proceeding or setting aside any conviction or sentence.</p> <p>(2) “Victim” means a person who suffers direct or threatened physical, psychological, or financial harm as the result of the commission or attempted commission of a crime against him. The term “victim” also includes the person’s spouse, parent, child, or lawful representative of a crime victim who is deceased, who is a minor or who is incompetent or who was a homicide victim or who is physically or psychologically incapacitated.</p> |

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| | <p>(3) The General Assembly has the authority to enact substantive and procedural laws to define, implement, preserve, and protect the rights guaranteed to victims by this section, including the authority to extend any of these rights to juvenile proceedings.</p> <p>(4) The enumeration in the Constitution of certain rights for victims shall not be construed to deny or disparage others granted by the General Assembly or retained by victims. (1998 Act No. 259.)</p> <p><i>S.C. Code Ann. § 16-3-2040 (Restitution for victims of trafficking).</i></p> <p>(A) An offender convicted of a violation of this article must be ordered to pay mandatory restitution to the victim as provided in this section.</p> <p>(B) If the victim of trafficking dies as a result of being trafficked, a surviving spouse of the victim is eligible for restitution. If no surviving spouse exists, restitution must be paid to the victim’s issue or their descendants per stirpes. If no surviving spouse or issue or descendants exist, restitution must be paid to the victim’s estate. A person named in this subsection may not receive funds from restitution if he benefited or engaged in conduct described in this article.</p> <p>(C) If a person is unable to pay restitution at the time of sentencing, or at any other time, the court may set restitution pursuant to Section 16-3-1270.</p> <p>(D) Restitution for this section, pursuant to Section 16-3-1270, means payment for all injuries, specific losses, and expenses, including, but not limited to, attorney’s fees, sustained by a crime victim resulting from an offender’s criminal conduct pursuant to Section 16-3-1110(12)(a). In addition, the court may order an amount representing the value of the victim’s labor or services.</p> <p>(E) Notwithstanding another provision of law, the applicable statute of limitations for a victim of trafficking in persons is pursuant to Section 16-3-1110(12)(a).</p> <p>(F) Restitution must be paid to the victim promptly upon the conviction of the defendant. The return of the victim to his home country or other absence of the victim from the jurisdiction does not prevent the victim from receiving restitution.</p> <p><i>S.C. Code Ann. § 17-25-322 (Restitution to crime victim by person convicted of crime; hearing; determination of method, manner, and amount; entry of order).</i></p> <p>(A) When a defendant is convicted of a crime which has resulted in pecuniary damages or loss to a victim, the court must hold a hearing to determine the amount of restitution due the victim or victims of the defendant’s criminal acts. The restitution hearings must be held unless the defendant in open court agrees to the amount</p> |

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| | <p>due, and in addition to any other sentence which it may impose, the court shall order the defendant make restitution or compensate the victim for any pecuniary damages.</p> <p>The defendant, the victim or victims, or their representatives or the victim’s legal representative as well as the Attorney General and the solicitor have the right to be present and be heard upon the issue of restitution at any of these hearings.</p> <p>(B) In determining the manner, method, or amount of restitution to be ordered, the court may take into consideration the following:</p> <ol style="list-style-type: none"> (1) 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; (2) the ability of the defendant to pay restitution on an installment basis or on other conditions to be fixed by the court; (3) the anticipated rehabilitative effect on the defendant regarding the manner of restitution or the method of payment; (4) any burden or hardship upon the victim as a direct or indirect result of the defendant’s criminal acts; (5) the mental, physical, and financial well-being of the victim. <p>(C) At the restitution hearings, the defendant, the victim, the Attorney General, the solicitor, or other interested party may object to the imposition, amount or distribution of restitution, or the manner or method of them, and the court shall allow all of these objections to be heard and preserved as a matter of record. The court shall enter its order upon the record stating its findings and the underlying facts and circumstances of them. The restitution order shall specify a monthly payment schedule that will result in full payment for both restitution and collection fees by the end of eighty percent of the offender’s supervision period. In the absence of a monthly payment schedule, the Department of Probation, Parole, and Pardon Services shall impose a payment schedule of equal monthly payments that will result in full restitution and collections fee being paid by the end of eighty percent of an offender’s supervision period. The department, through its agents, must initiate legal process to bring every probationer, whose restitution is six months in arrears, back to court, regardless of wilful failure to pay. The judge shall make an order addressing the probationer’s failure to pay.</p> <p>(D) All restitution funds, excluding the twenty percent collection fee, collected before or after the effective date of this section that remain unclaimed by a crime victim for more than eighteen months from the day of last payment received must be transferred to the South Carolina Victim Compensation Fund, notwithstanding the Uniform Unclaimed Property Act of 1981.</p> <p>(E) An offender may not be granted a pardon until the restitution and collection fees required by the restitution order have been paid in full.</p> |

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| | <p><i>S.C. Code Ann. § 17-25-324 (restitution to secondary victims and third-party payees; reports).</i></p> <p>(A) Secondary victims and third-party payees, excluding the offender’s insurer, may receive restitution as determined by the court. The Department of Probation, Parole and Pardon Services shall ensure that a primary victim receives his portion of a restitution order before any of the offender’s payments are credited to a secondary victim or a third party payee, or both.</p> <p>(B) The department shall report to the Governor’s Office, the President of the Senate, the Speaker of the House, the Chairman of the House Judiciary Committee, and the Chairman of the Senate Corrections and Penology Committee by the first day of the 1997 Legislative Session detailed recommendations for collection and distribution of restitution and issues relating to indigent offenders and use of civil remedies.</p> |
| <p>South Dakota</p> | <p><i>S.D. Const. art. VI, § 29 (Rights of crime victim).</i></p> <p>A victim shall have the following rights:</p> <p>...</p> <p>14. The right to full and timely restitution in every case and from each offender for all losses suffered by the victim as a result of the criminal conduct and as provided by law for all losses suffered as a result of delinquent conduct;</p> <p>....</p> <p><i>S.D. Codified Laws § 22-6-1 (Felony classes and penalties – Restitution – Habitual criminal sentences).</i></p> <p>...</p> <p>The court, in imposing sentence on a defendant who has been found guilty of a felony, shall order in addition to the sentence that is imposed pursuant to the provisions of this section, that the defendant make restitution to any victim in accordance with the provisions of chapter 23A-28.</p> <p>....</p> <p><i>S.D. Codified Laws § 23A-28-2 (Definition of terms).</i></p> <p>Terms used by this chapter mean:</p> <p>(1) “Community service restitution,” public service work provided under court order that benefits the general public which includes: charitable agencies, governmental agencies, educational institutions, the handicapped, the elderly, the ecology, the church of the offender’s choice, and any other agencies that the sentencing judge</p> |

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| | <p>deems reasonably rehabilitative to the offender. No work service may result in gain to any private individual or to a private corporation;</p> <p>(2) “Criminal activities,” includes any crime for which there is a plea of guilty or verdict of guilty upon which a judgment of conviction may be rendered and any other crime committed after June 30, 1979, which is admitted by the defendant, whether or not prosecuted. However, the term does not include petty offenses;</p> <p>(3) “Pecuniary damages,” all damages which a victim could recover against the defendant in a civil action arising out of the same facts or event, except punitive damages and damages for pain, suffering, mental anguish, and loss of consortium. Without limitation, the term includes damages for wrongful death;</p> <p>(4) “Restitution,” full or partial payment of pecuniary damages to a victim;</p> <p>(5) “Victim,” any person, as defined in subdivision 22-1-2(31), who has suffered pecuniary damages as a result of the defendant’s criminal activities, including any person who has by contract or by statute undertaken to indemnify another or to pay or provide a specified or determinable amount or benefit upon determinable contingencies. Any victim who has suffered pecuniary damages has priority of claim as opposed to any person who has a claim to indemnity or subrogation as a result of the same defendant’s criminal activity.</p> <p><i>S.D. Codified Laws § 23A-28-3 (Plan of restitution – Present inability to make restitution – No pecuniary damages suffered – Hearing – Condition of parole).</i></p> <p>If the sentencing court orders the defendant to the county jail, suspended imposition of sentence, suspended sentence, or probation, the court may require as a condition that the defendant, in cooperation with the court services officer assigned to the defendant, promptly prepare a plan of restitution, including the name and address of each victim, a specific amount of restitution to each victim, and a schedule of restitution payments. If the defendant is presently unable to make any restitution, but there is a reasonable possibility that the defendant may be able to do so at some time during the defendant’s probation period, the plan of restitution shall also state the conditions under which or the event after which the defendant will make restitution. If the defendant believes that no person suffered pecuniary damages as a result of the defendant’s criminal activities, the defendant shall so state. If the defendant contests the amount of restitution recommended by the court services officer, the defendant is entitled to a hearing at which the court shall determine the amount. If the sentencing court orders the defendant to the state penitentiary and does not suspend the sentence, the court shall set forth in the judgment the names and specific amount of restitution owed each victim. The Department of Corrections shall establish the collection schedule for court-ordered restitution while the defendant is in the penitentiary and on parole. The Board of Pardons and Paroles shall require, as a condition of parole, that the defendant pay restitution ordered by the court.</p> |

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| | <p><i>S.D. Codified Laws § 23A-28-4 (Submission of restitution plan to court – Approval or modification).</i> The defendant’s plan of restitution and the comments of defendant’s court services officer shall be submitted promptly to the court. The court shall promptly enter an order approving the plan or modifying it and providing for restitution payments to the extent that the defendant is or may become reasonably able to make restitution, taking into account the factors enumerated in § 23A-28-5. The court thereafter may modify the plan at any time upon the defendant’s request or upon the court’s own motion.</p> <p><i>S.D. Codified Laws § 23A-28-5 (Factors considered in formulating restitution plan).</i> The court services officer when assisting the defendant in preparing the plan of restitution and the court before approving or modifying the plan of restitution shall consider the physical and mental health and condition of the defendant, the defendant’s age, the defendant’s education, the defendant’s employment circumstances, the defendant’s potential for employment and vocational training, the defendant’s family circumstances, the defendant’s financial condition, the number of victims, the pecuniary damages of each victim, what plan of restitution will most effectively aid the rehabilitation of the defendant, and each victim, and such other factors as may be appropriate.</p> <p><i>S.D. Codified Laws § 23A-28-6 (Notice to victims of restitution plan – Civil action against defendant).</i> The court services officer shall provide each known victim a copy of the court’s order approving or modifying the plan of restitution for any defendant not serving his sentence in the state penitentiary. The executive director of the Board of Pardons and Paroles shall provide each known victim a copy of the schedule of restitution for each inmate placed on parole. If the victim is not satisfied with the approved or modified plan of restitution, the victim’s exclusive remedy is a civil action against the defendant, which, if successful, may include attorney’s fees.</p> <p><i>S.D. Codified Laws § 23A-28-12 (Minor victim’s medical, psychological or psychiatric treatment or foster care – Sentence requiring payment).</i> Anyone convicted under § 26-10-1 or 22-22-7, or subdivision 22-22-1(1) or (5), shall be required as part of the sentence imposed by the court to pay all or part of the cost of any necessary medical, psychological, or psychiatric treatment, or foster care of the minor resulting from the act or acts for which the defendant is convicted.</p> |

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| | <p><i>S.D. Codified Laws § 23A-28C-1 (Rights of crime victim).</i> Consistent with § 23A-28C-4, victims of the crime, including victims of driving under the influence vehicle accidents, have the following rights: . . . (8) To provide to the court a written or oral victim impact statement prior to sentencing regarding the financial and emotional impact of the crime on the victim and his or her family as well as recommendations for restitution and sentencing and § 23A-28-8 notwithstanding, the right to appear at any hearing during which a change in the plan of restitution is to be considered; (9) To receive restitution, whether the convicted criminal is probated or incarcerated, unless the court or parole board provides to the victim on the record specific reasons for choosing not to require it; </p> |
| <p>Tennessee</p> | <p><i>Tenn. Const. art. I, § 35 (Rights of victims of crimes).</i> To preserve and protect the rights of victims of crime to justice and due process, victims shall be entitled to the following basic rights: 1. The right to confer with the prosecution. 2. The right to be free from intimidation, harassment and abuse throughout the criminal justice system. 3. The right to be present at all proceedings where the defendant has the right to be present. 4. The right to be heard, when relevant, at all critical stages of the criminal justice process as defined by the General Assembly. 5. The right to be informed of all proceedings, and of the release, transfer or escape of the accused or convicted person. 6. The right to a speedy trial or disposition and a prompt and final conclusion of the case after the conviction or sentence. 7. The right to restitution from the offender. 8. The right to be informed of each of the rights established for victims. The general assembly has the authority to enact substantive and procedural laws to define, implement, preserve and protect the rights guaranteed to victims by this section. <i>Tenn. Code Ann. § 39-11-118 (Restitution).</i></p> |

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| | <p>(a) In addition to the punishment authorized by the specific statute prohibiting the conduct, it is a part of the punishment for any offense committed in this state that the person committing the offense may be sentenced by the court to pay restitution to the victim or victims of the offense in accordance with §§ 40-35-104(c)(2) and 40-35-304.</p> <p>(b) In addition to the punishment authorized by the specific statute prohibiting the conduct, it is a part of the punishment for the offenses named in this subsection (b) that the defendant be sentenced by the court to pay restitution to the victim or victims of §§ 39-13-309, 39-13-514, 39-17-1005(a), 39-13-528(a), and 39-13-529(a) in accordance with §§ 40-35-104(c)(2) and 40-35-304.</p> <p><i>Tenn. Code Ann. § 39-13-307 (Involuntary labor servitude).</i></p> <p>(a) A person commits the offense of involuntary labor servitude who knowingly subjects, or attempts to subject, another person to forced labor or services by:</p> <ol style="list-style-type: none"> (1) Causing or threatening to cause serious bodily harm to the person; (2) Physically restraining or threatening to physically restrain the person; (3) Abusing or threatening to abuse the law or legal process; (4) Knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of the person; (5) Using blackmail or using or threatening to cause financial harm for the purpose of exercising financial control over the person; (6) Facilitating or controlling the person's access to an addictive controlled substance; or (7) Controlling the person's movements through threats or violence. <p>(b) In addition to any other amount of loss identified or any other punishment imposed, the court shall order restitution to the victim or victims in an amount equal to the greater of:</p> <ol style="list-style-type: none"> (1) The gross income or value to the defendant of the victim's labor or services; or (2) The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA) (29 U.S.C. § 201 et seq.), or the minimum wage required in this state, whichever is higher. <p>(c) Nothing in this section shall be construed as prohibiting the defendant from also being prosecuted for the theft of the victim's labor or services by involuntary servitude or for any other appropriate criminal statute violated by the defendant's conduct.</p> <p>(d)(1) Involuntary servitude is a Class C felony.</p> |

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| | <p>(2) Involuntary servitude is a Class B felony if:</p> <p>(A) The violation resulted in the serious bodily injury or death of a victim;</p> <p>(B) The period of time during which the victim was held in servitude exceeded one (1) year;</p> <p>(C) The defendant held ten (10) or more victims in servitude at any time during the course of the defendant’s criminal episode; or</p> <p>(D) The victim was under thirteen (13) years of age.</p> <p><i>Tenn. Code Ann. § 40-20-116 (Restitution).</i></p> <p>(a) Whenever a felon is convicted of stealing or feloniously taking or receiving property, or defrauding another of property, the jury shall ascertain the value of the property, if not previously restored to the owner, and the court shall, thereupon, order the restitution of the property, and, in case this cannot be done, that the party aggrieved recover the value assessed against the prisoner, for which execution may issue as in other cases.</p> <p>(b) If the property has been feloniously destroyed, the jury shall ascertain the damages sustained, upon which judgment shall be rendered in favor of the party aggrieved against the defendant, and execution shall issue as provided in subsection (a).</p> <p>(c) This section is cumulative, and does not deprive the party injured of any other right the party may have for the recovery of property or its value.</p> <p><i>Tenn. Code Ann. § 40-35-104 (Alternative sentences).</i></p> <p>(a) A defendant convicted of a felony or a misdemeanor in this state shall be sentenced in accordance with this chapter.</p> <p>...</p> <p>(c) The following sentencing alternatives in any appropriate combination are authorized for defendants otherwise eligible under this chapter:</p> <p>(1) Payment of a fine either alone or in addition to any other sentence authorized by this subsection (c);</p> <p>(2) Payment of restitution to the victim or victims either alone or in addition to any other sentence authorized by this subsection (c);</p> <p>....</p> <p><i>Tenn. Code Ann. § 40-35-304 (Restitution; amount; definition; waiver; procedure).</i></p> <p>(a) A sentencing court may direct a defendant to make restitution to the victim of the offense as a condition of probation.</p> |

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| | <p>(b) Whenever the court believes that restitution may be proper or the victim of the offense or the district attorney general requests, the court shall order the presentence service officer to include in the presentence report documentation regarding the nature and amount of the victim’s pecuniary loss.</p> <p>(c) The court shall specify at the time of the sentencing hearing the amount and time of payment or other restitution to the victim and may permit payment or performance in installments. The court may not establish a payment or performance schedule extending beyond the statutory maximum term of probation supervision that could have been imposed for the offense.</p> <p>(d) In determining the amount and method of payment or other restitution, the court shall consider the financial resources and future ability of the defendant to pay or perform.</p> <p>(e) For the purposes of this section, “pecuniary loss” means:</p> <ol style="list-style-type: none"> (1) All special damages, but not general damages, as substantiated by evidence in the record or as agreed to by the defendant; and (2) Reasonable out-of-pocket expenses incurred by the victim resulting from the filing of charges or cooperating in the investigation and prosecution of the offense; provided, that payment of special prosecutors shall not be considered an out-of-pocket expense. <p>(f) A defendant, victim or district attorney general at any time may petition the sentencing court to adjust or otherwise waive payment or performance of any ordered restitution or any unpaid or unperformed portion of the restitution. The court shall schedule a hearing and give the victim and the defendant notice of the hearing, including the date, place and time and inform the victim and defendant that each will have an opportunity to be heard. If the court finds that the circumstances upon which it based the imposition or amount and method of payment or other restitution ordered no longer exist or that it otherwise would be unjust to require payment or other restitution as imposed, the court may adjust or waive payment of the unpaid portion of the restitution or other restitution or modify the time or method of making restitution. The court may extend the restitution schedule, but not beyond the term of probation supervision.</p> <p>(g) The procedure for a defendant sentenced to pay restitution pursuant to § 40-35-104(c)(2), or otherwise, shall be the same as is provided in this section with the following exceptions:</p> <ol style="list-style-type: none"> (1) If there is no sentencing hearing or presentence report because the defendant’s sentence is agreed upon and the payment of restitution is a part of the sentence, the plea agreement shall include the amount of restitution and the other performance requirements set out in subsection (c); (2) A defendant sentenced in whole or in part to the payment of restitution pursuant to § 40-35-104(c)(2), or otherwise, shall be responsible for the payment of the restitution until the expiration of the sentence imposed by |

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| | <p>the court, and any payment or performance schedule established by the court shall not extend beyond the expiration date;</p> <p>(3) If the court sentences a defendant to payment of restitution and believes that payment to more than one (1) victim is proper, the court shall determine the pecuniary loss of each victim as provided in this section and shall order the amount of restitution to each victim;</p> <p>(4) If, as a result of the defendant’s criminal conduct, the victim or victims of the offense are dead at the time of sentencing, the court may sentence the defendant to pay restitution to the victim’s or victims’ next-of-kin; and</p> <p>(5) Nothing in § 39-11-118, § 40-35-104(c)(2) or this subsection (g) shall be construed to prohibit or delay a victim from applying for and receiving any compensation to which the victim is entitled under the Criminal Injuries Compensation Act, compiled in title 29, chapter 13. If the court orders the defendant to pay restitution pursuant to § 39-11-118, § 40-35-104(c)(2) or this subsection (g), the state shall have a subrogation interest in the restitution payments for the full amount paid the victim under the Criminal Injuries Compensation Act.</p> <p>(h)(1) Notwithstanding any law to the contrary, upon expiration of the time of payment or the payment schedule imposed pursuant to subsection (c) or (g), if any portion of restitution remains unpaid, then the victim or the victim’s beneficiary may convert the unpaid balance into a civil judgment in accordance with the procedure set forth in this subsection (h).</p> <p>(2) Within the twelve-month period following expiration of the time of payment or the payment schedule imposed pursuant to subsection (c) or (g), the victim or the victim’s beneficiary may file a certified copy of the restitution order with an appropriate civil court having jurisdiction over the total amount of restitution ordered.</p> <p>(3) At the same time the victim or victim’s beneficiary files a certified copy of the restitution order with the civil court, the victim or victim’s beneficiary shall have the defendant personally served in accordance with the Tennessee rules of civil procedure. The service shall give notice to the defendant of the victim’s or victim’s beneficiary’s intent to convert the restitution order to a civil judgment, and include a copy of the restitution order and a statement as to the amount of unpaid restitution the victim or victim’s beneficiary alleges the defendant still owes.</p> <p>(4) Upon being served, the defendant shall be permitted to file an answer in accordance with the Tennessee rules of civil procedure.</p> <p>(5) Upon service of the defendant and receipt of the defendant’s answer, if any, the civil court shall conduct a hearing in order to take proof as to the amount of ordered restitution actually paid. Both the victim or victim’s beneficiary and the defendant shall be permitted to offer proof at this hearing. If the court finds by a preponderance of the evidence presented that the amount of restitution actually paid is less than the total amount of restitution ordered pursuant to subsection (c) or (g), then the court shall enter a judgment in favor of</p> |

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| | <p>the victim or the victim’s beneficiary and against the defendant for the amount of the unpaid balance of the restitution.</p> <p>(6) At the hearing conducted in accordance with this subsection (h), the only issues over which the court shall have jurisdiction is whether the defendant was properly served in accordance with the Tennessee rules of civil procedure, whether the restitution order entered against the defendant pursuant to this section has been satisfied by the defendant and, if not, the amount of restitution still owed by the defendant.</p> <p>(7) A civil judgment entered pursuant to this subsection (h) shall remain in effect from the date of entry until it is paid in full or is otherwise discharged and shall be enforceable by the victim or the victim’s beneficiary in the same manner and to the same extent as other civil judgments are enforceable.</p> <p><i>Tenn. Code Ann. § 40-38-103 (Victims; additional rights).</i></p> <p>(a) All victims of crime shall, upon their request, have the right to:</p> <p>(1) Be fully informed orally, in writing or by video tape by the office of the district attorney general, acting through the appropriate victim-witness coordinator, of the following:</p> <p>...</p> <p>(H) The methods by which the victim may obtain restitution directly from the defendant and information about obtaining assistance in obtaining restitution;</p> <p>....</p> |
| Texas | <p><i>Tex. Const. art. I, § 30 (Rights of crime victims).</i></p> <p>Sec. 30. (a) A crime victim has the following rights:</p> <p>(1) the right to be treated with fairness and with respect for the victim’s dignity and privacy throughout the criminal justice process; and</p> <p>(2) the right to be reasonably protected from the accused throughout the criminal justice process.</p> <p>(b) On the request of a crime victim, the crime victim has the following rights:</p> <p>...</p> <p>(4) the right to restitution</p> <p>....</p> <p><i>Tex. Code Crim. Proc. Ann. art. 42.037 (Restitution).</i></p> |

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| | <p>(a) In addition to any fine authorized by law, the court that sentences a defendant convicted of an offense may order the defendant to make restitution to any victim of the offense or to the compensation to victims of crime fund established under Subchapter B, Chapter 56, to the extent that fund has paid compensation to or on behalf of the victim. If the court does not order restitution or orders partial restitution under this subsection, the court shall state on the record the reasons for not making the order or for the limited order.</p> <p>(b)(1) If the offense results in damage to or loss or destruction of property of a victim of the offense, the court may order the defendant:</p> <p>(A) to return the property to the owner of the property or someone designated by the owner; or</p> <p>(B) if return of the property is impossible or impractical or is an inadequate remedy, to pay an amount equal to the greater of:</p> <p>(i) the value of the property on the date of the damage, loss, or destruction; or</p> <p>(ii) the value of the property on the date of sentencing, less the value of any part of the property that is returned on the date the property is returned.</p> <p>(2) If the offense results in personal injury to a victim, the court may order the defendant to make restitution to:</p> <p>(A) the victim for any expenses incurred by the victim as a result of the offense; or</p> <p>(B) the compensation to victims of crime fund to the extent that fund has paid compensation to or on behalf of the victim.</p> <p>(3) If the victim or the victim’s estate consents, the court may, in addition to an order under Subdivision (2), order the defendant to make restitution by performing services instead of by paying money or make restitution to a person or organization, other than the compensation to victims of crime fund, designated by the victim or the estate.</p> <p>(c) The court, in determining whether to order restitution and the amount of restitution, shall consider:</p> <p>(1) the amount of the loss sustained by any victim and the amount paid to or on behalf of the victim by the compensation to victims of crime fund as a result of the offense; and</p> <p>(2) other factors the court deems appropriate.</p> <p>(d) If the court orders restitution under this article and the victim is deceased the court shall order the defendant to make restitution to the victim’s estate.</p> <p>(e) The court shall impose an order of restitution that is as fair as possible to the victim or to the compensation to victims of crime fund, as applicable. The imposition of the order may not unduly complicate or prolong the sentencing process.</p> <p>(f)(1) The court may not order restitution for a loss for which the victim has received or will receive compensation only from a source other than the compensation to victims of crime fund. The court may, in the</p> |

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| | <p>interest of justice, order restitution to any person who has compensated the victim for the loss to the extent the person paid compensation. An order of restitution shall require that all restitution to a victim or to the compensation to victims of crime fund be made before any restitution to any other person is made under the order.</p> <p>(2) Any amount recovered by a victim from a person ordered to pay restitution in a federal or state civil proceeding is reduced by any amount previously paid to the victim by the person under an order of restitution.</p> <p>(g)(1) The court may require a defendant to make restitution under this article within a specified period or in specified installments. If the court requires the defendant to make restitution in specified installments, in addition to the installment payments, the court may require the defendant to pay a one-time restitution fee of \$12, \$6 of which the court shall retain for costs incurred in collecting the specified installments and \$6 of which the court shall order to be paid to the compensation to victims of crime fund.</p> <p>(2) The end of the period or the last installment may not be later than:</p> <p>(A) the end of the period of probation, if probation is ordered;</p> <p>(B) five years after the end of the term of imprisonment imposed, if the court does not order probation; or</p> <p>(C) five years after the date of sentencing in any other case.</p> <p>(3) If the court does not provide otherwise, the defendant shall make restitution immediately.</p> <p>(4) Except as provided by Subsection (n), the order of restitution must require the defendant to: (i) make restitution directly to the person or agency that will accept and forward restitution payments to the victim or other person eligible for restitution under this article, including the compensation to victims of crime fund; (ii) make restitution directly to the victim or other person eligible for restitution under this article, including the compensation to victims of crime fund; or (iii) deliver the amount or property due as restitution to a community supervision and corrections department for transfer to the victim or person.</p> <p>(h) If a defendant is placed on community supervision or is paroled or released on mandatory supervision, the court or the parole panel shall order the payment of restitution ordered under this article as a condition of community supervision, parole, or mandatory supervision. The court may revoke community supervision and the parole panel may revoke parole or mandatory supervision if the defendant fails to comply with the order. In determining whether to revoke community supervision, parole, or mandatory supervision, the court or parole panel shall consider:</p> <p>(1) the defendant’s employment status;</p> <p>(2) the defendant’s current and future earning ability;</p> <p>(3) the defendant’s current and future financial resources;</p> <p>(4) the willfulness of the defendant’s failure to pay;</p> |

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| | <p>(5) any other special circumstances that may affect the defendant’s ability to pay; and</p> <p>(6) the victim’s financial resources or ability to pay expenses incurred by the victim as a result of the offense.</p> <p>(i) In addition to any other terms and conditions of community supervision imposed under Chapter 42A, the court may require a defendant to reimburse the compensation to victims of crime fund created under Subchapter B, Chapter 56,1 for any amounts paid from that fund to or on behalf of a victim of the defendant’s offense. In this subsection, “victim” has the meaning assigned by Article 56.32.</p> <p>(j) The court may order a community supervision and corrections department to obtain information pertaining to the factors listed in Subsection (c). The supervision officer shall include the information in the report required under Article 42A.252(a) or a separate report, as the court directs. The court shall permit the defendant and the prosecuting attorney to read the report.</p> <p>(k) The court shall resolve any dispute relating to the proper amount or type of restitution. The standard of proof is a preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense is on the prosecuting attorney. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant and the defendant’s dependents is on the defendant. The burden of demonstrating other matters as the court deems appropriate is on the party designated by the court as justice requires.</p> <p>(l) Conviction of a defendant for an offense involving the act giving rise to restitution under this article estops the defendant from denying the essential allegations of that offense in any subsequent federal civil proceeding or state civil proceeding brought by the victim, to the extent consistent with state law.</p> <p>(m) An order of restitution may be enforced by the state or a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.</p> <p>(n) If a defendant is convicted of or receives deferred adjudication for an offense under Section 25.05, Penal Code, if the child support order on which prosecution of the offense was based required the defendant to pay the support to a local registry or the Title IV-D agency, and if the court orders restitution under this article, the order of restitution must require the defendant to pay the child support in the following manner:</p> <p>(1) during any period in which the defendant is under the supervision of a community supervision and corrections department, to the department for transfer to the local registry or Title IV-D agency designated as the place of payment in the child support order; and</p> <p>(2) during any period in which the defendant is not under the supervision of a department, directly to the registry or agency described by Subdivision (1).</p> |

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| | <p>(o) The department may waive a supervision fee or an administrative fee imposed on an inmate under Section 508.182, Government Code, during any period in which the inmate is required to pay restitution under this article.</p> <p>(p)(1) A court shall order a defendant convicted of an offense under Section 28.03(f), Penal Code, involving damage or destruction inflicted on a place of human burial or under Section 42.08, Penal Code, to make restitution in the amount described by Subsection (b)(1)(B) to a cemetery organization operating a cemetery affected by the commission of the offense.</p> <p>(2) If a court orders an unemancipated minor to make restitution under Subsection (a) and the minor is financially unable to make the restitution, the court may order:</p> <p>(A) the minor to perform a specific number of hours of community service to satisfy the restitution; or</p> <p>(B) the parents or other person responsible for the minor’s support to make the restitution in the amount described by Subsection (b)(1)(B).</p> <p>(3) In this subsection, “cemetery” and “cemetery organization” have the meanings assigned by Section 711.001, Health and Safety Code.</p> <p>(q) The court shall order a defendant convicted of an offense under Section 22.11, Penal Code, to make restitution to the victim of the offense or the victim’s employer in an amount equal to the sum of any expenses incurred by the victim or employer to:</p> <p>(1) test the victim for HIV, hepatitis A, hepatitis B, tuberculosis, or any other disease designated as a reportable disease under Section 81.048, Health and Safety Code; or</p> <p>(2) treat the victim for HIV, hepatitis A, hepatitis B, tuberculosis, or any other disease designated as a reportable disease under Section 81.048, Health and Safety Code, the victim contracts as a result of the offense.</p> <p>(r) The court may order a defendant convicted of an offense under Section 43.26, Penal Code, to make restitution to an individual who as a child younger than 18 years of age was depicted in the visual material, in an amount equal to the expenses incurred by the individual as a result of the offense, including:</p> <p>(1) medical services relating to physical, psychiatric, or psychological care;</p> <p>(2) physical and occupational therapy or rehabilitation;</p> <p>(3) necessary transportation, temporary housing, and child care expenses;</p> <p>(4) lost income; and</p> <p>(5) attorney’s fees.</p> <p>(s)(1) A court shall order a defendant convicted of an offense under Section 28.08, Penal Code, to make restitution by:</p> <p>(A) reimbursing the owner of the property for the cost of restoring the property; or</p> |

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| | <p>(B) with the consent of the owner of the property, personally restoring the property by removing or painting over any markings the defendant made.</p> <p>(2) A court shall order a defendant convicted of an offense under Section 28.08, Penal Code, to make restitution to a political subdivision that owns public property or erects a street sign or official traffic-control device on which the defendant makes markings in violation of Section 28.08, Penal Code, by:</p> <p>(A) paying an amount equal to the lesser of the cost to the political subdivision of replacing or restoring the public property, street sign, or official traffic-control device; or</p> <p>(B) with the consent of the political subdivision, restoring the public property, street sign, or official traffic-control device by removing or painting over any markings made by the defendant on the property, sign, or device.</p> <p>(3) If the court orders a defendant to make restitution under this subsection and the defendant is financially unable to make the restitution, the court may order the defendant to perform a specific number of hours of community service to satisfy the restitution.</p> <p>(4) Notwithstanding Subsection (g)(4), a court shall direct a defendant ordered to make restitution under this subsection as a condition of community supervision to deliver the amount or property due as restitution to the defendant's supervising officer for transfer to the owner. A parole panel shall direct a defendant ordered to make restitution under this subsection as a condition of parole or mandatory supervision to deliver the amount or property due as restitution to the defendant's supervising officer. The defendant's supervising officer shall notify the court when the defendant has delivered the full amount of restitution ordered.</p> <p>(5) For purposes of this subsection, "official traffic-control device" has the meaning assigned by Section 541.304, Transportation Code.</p> <p>(t) If a person is convicted of an offense under Section 641.054, Business & Commerce Code, the court shall order the person to make restitution to an owner or lawful producer of a master recording that has suffered financial loss as a result of the offense or to a trade association that represents that owner or lawful producer. The amount of restitution ordered shall be:</p> <p>(1) the greater of:</p> <p>(A) the aggregate wholesale value of the lawfully manufactured and authorized recordings corresponding to the number of nonconforming recordings involved in the offense; or</p> <p>(B) the actual financial loss to the owner, lawful producer, or trade association; and</p> <p>(2) the costs associated with investigating the offense.</p> <p>(u) For purposes of Subsection (t)(1)(A):</p> |

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| | <p>(1) the calculation of the aggregate wholesale value is based on the average wholesale value of the lawfully manufactured and authorized recordings; and</p> <p>(2) the specific wholesale value of each nonconforming recording is not relevant to the calculation.</p> <p>(v) For purposes of Subsection (t)(1)(B), the possession of a nonconforming recording intended for sale constitutes an actual financial loss to an owner or lawful producer equal to the actual value of the legitimate wholesale purchases displaced by the nonconforming recordings.</p> <p><i>Tex. Code Crim. Proc. Ann. art. 42.0371 (Mandatory Restitution for Kidnapped or Abducted Children).</i></p> <p>(a) The court shall order a defendant convicted of an offense under Chapter 20, Penal Code, or Section 25.03, 25.031, or 25.04, Penal Code, to pay restitution in an amount equal to the cost of necessary rehabilitation, including medical, psychiatric, and psychological care and treatment, for the victim of the offense if the victim is younger than 17 years of age.</p> <p>(b) The court shall, after considering the financial circumstances of the defendant, specify in a restitution order issued under Subsection (a) the manner in which the defendant must pay the restitution.</p> <p>(c) A restitution order issued under Subsection (a) may be enforced by the state or a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.</p> <p>(d) The court may hold a hearing, make findings of fact, and amend a restitution order issued under Subsection (a) if the defendant fails to pay the victim named in the order in the manner specified by the court.</p> <p><i>Tex. Code Crim. Proc. Ann. art. 42.0372 (Mandatory Restitution for Child Victims of Trafficking of Persons or Compelling Prostitution).</i></p> <p>(a) The court shall order a defendant convicted of an offense under Section 20A.02 or 43.05(a)(2), Penal Code, to pay restitution in an amount equal to the cost of necessary rehabilitation, including medical, psychiatric, and psychological care and treatment, for any victim of the offense who is younger than 18 years of age.</p> <p>(b) The court shall, after considering the financial circumstances of the defendant, specify in a restitution order issued under Subsection (a) the manner in which the defendant must pay the restitution.</p> <p>(c) A restitution order issued under Subsection (a) may be enforced by the state, or by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.</p> <p>(d) The court may hold a hearing, make findings of fact, and amend a restitution order issued under Subsection (a) if the defendant fails to pay the victim named in the order in the manner specified by the court.</p> <p><i>Tex. Code Crim. Proc. Ann. art. 42.0373 (Mandatory Restitution for Child Witness of Family Violence).</i></p> |

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| | <p>(a) If after a conviction or a grant of deferred adjudication a court places a defendant on community supervision for an offense involving family violence, as defined by Section 71.004, Family Code, the court shall determine from the complaint, information, indictment, or other charging instrument, the presentence report, or other evidence before the court whether:</p> <p>(1) the offense was committed in the physical presence of, or in the same habitation or vehicle occupied by, a person younger than 15 years of age; and</p> <p>(2) at the time of the offense, the defendant had knowledge or reason to know that the person younger than 15 years of age was physically present or occupied the same habitation or vehicle.</p> <p>(b) If the court determines both issues described by Subsection (a) in the affirmative, the court shall order the defendant to pay restitution in an amount equal to the cost of necessary rehabilitation, including medical, psychiatric, and psychological care and treatment, for a person described by Subsection (a)(1).</p> <p>(c) The court shall, after considering the financial circumstances of the defendant, specify in a restitution order issued under Subsection (b) the manner in which the defendant must pay the restitution. The order must require restitution payments to be delivered in the manner described by Article 42.037(g)(4)(iii).</p> <p>(d) A restitution order issued under Subsection (b) may be enforced by the state, or by a person or a parent or guardian of the person named in the order to receive the restitution, in the same manner as a judgment in a civil action.</p> <p>(e) The court may hold a hearing, make findings of fact, and amend a restitution order issued under Subsection (b) if the defendant fails to pay the person named in the order in the manner specified by the court.</p> <p>(f) A determination under this article may not be entered as an affirmative finding in the judgment for the offense for which the defendant was placed on community supervision.</p> |
| Utah | <p><i>Utah Code Ann. § 77-27-6 (Payment of restitution).</i></p> <p>(1) When the Board of Pardons and Parole orders the release on parole of an inmate who has been sentenced to make restitution pursuant to Title 77, Chapter 38a, Crime Victims Restitution Act, or whom the board has ordered to make restitution, and all or a portion of restitution is still owing, the board may establish a schedule, including both complete and court-ordered restitution, by which payment of the restitution shall be made, or order compensatory or other service in lieu of or in combination with restitution. In fixing the schedule and supervising the paroled offender's performance, the board may consider the factors specified in Section 77-38a-302.</p> <p>(2)(a) The board may impose any court order for restitution.</p> |

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| | <p>(b) In accordance with Subsection 77-38a-302(5)(d)(iii)(A), the board may order that a defendant make restitution for pecuniary damages that were not determined by the court, unless the board applying the criteria as set forth in Section 77-38a-302 determines that restitution is inappropriate.</p> <p>(c) Except as provided in Subsection (2)(d), the board shall make all orders of restitution within 60 days after the termination or expiration of the defendant’s sentence.</p> <p>(d) If, upon termination or expiration of a defendant’s sentence, the board has continuing jurisdiction over the defendant for a separate criminal offense, the board may defer making an order of restitution until termination or expiration of all sentences for that defendant.</p> <p>(3) The board may also make orders of restitution for recovery of any or all costs incurred by the Department of Corrections or the state or any other agency arising out of the defendant’s needs or conduct.</p> <p>(4) If the defendant, upon termination or expiration of the sentence owes outstanding fines, restitution, or other assessed costs, or if the board makes an order of restitution within 60 days after the termination or expiration of the defendant’s sentence, the matter shall be referred to the district court for civil collection remedies. The Board of Pardons and Parole shall forward a restitution order to the sentencing court to be entered on the judgment docket. The entry shall constitute a lien and is subject to the same rules as a judgment for money in a civil judgment.</p> <p><i>Utah Code Ann. § 77-37-3 (Bill of rights).</i></p> <p>(1) The bill of rights for victims and witnesses is:</p> <p>...</p> <p>(e) Victims may seek restitution or reparations, including medical costs, as provided in Title 63M, Chapter 7, Criminal Justice and Substance Abuse, and Sections 62A-7-109.5, 77-38a-302, and 77-27-6. State and local government agencies that serve victims have the duty to have a functional knowledge of the procedures established by the Crime Victim Reparations Board and to inform victims of these procedures.</p> <p>....</p> <p><i>Utah Code Ann. § 77-38a-102 (Definitions).</i></p> <p>As used in this chapter:</p> <p>...</p> <p>(11) “Restitution” means full, partial, or nominal payment for pecuniary damages to a victim, including prejudgment interest, the accrual of interest from the time of sentencing, insured damages, reimbursement for</p> |

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| | <p>payment of a reward, and payment for expenses to a governmental entity for extradition or transportation and as may be further defined by law.</p> <p>....</p> <p><i>Utah Code Ann. § 77-38a-202 (Restitution determination – Prosecution duties and responsibilities).</i></p> <p>(1) At the time of entry of a conviction or entry of any plea disposition of a felony or class A misdemeanor, the attorney general, county attorney, municipal attorney, or district attorney shall provide to the district court:</p> <p>(a) the names of all victims, including third parties, asserting claims for restitution;</p> <p>(b) the actual or estimated amount of restitution determined at that time; and</p> <p>(c) whether or not the defendant has agreed to pay the restitution specified as part of the plea disposition.</p> <p>(2) In computing actual or estimated restitution, the attorney general, county attorney, municipal attorney, or district attorney shall:</p> <p>(a) use the criteria set forth in Section 77-38a-302 for establishing restitution amounts; and</p> <p>(b) in cases involving multiple victims, incorporate into any conviction or plea disposition all claims for restitution arising out of the investigation for which the defendant is charged.</p> <p>(3) If charges are not to be prosecuted as part of a plea disposition, restitution claims from victims of those crimes shall also be provided to the court.</p> <p>(4)(a) The attorney general, county attorney, municipal attorney, or district attorney may be authorized by the appropriate public treasurer to deposit restitution collected on behalf of crime victims into an interest bearing account in accordance with Title 51, Chapter 7, State Money Management Act, pending distribution of the funds.</p> <p>(b) In the event restitution funds are deposited in an interest bearing account as provided under Subsection (4)(a), the attorney general, county attorney, municipal attorney, or district attorney shall:</p> <p>(i) distribute any interest that accrues in the account to each crime victim on a pro rata basis; and</p> <p>(ii) if all crime victims have been made whole and funds remain, distribute any remaining funds to the state Division of Finance for deposit to the Utah Office for Victims of Crime.</p> <p>(c) This section does not prevent an independent judicial authority from collecting, holding, and distributing restitution.</p> <p><i>Utah Code Ann. § 77-38a-203 (Restitution determination – Department of Corrections – Presentence investigation).</i></p> |

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| | <p>(1)(a) The department shall prepare a presentence investigation report in accordance with Subsection 77-18-1(5). The prosecutor and law enforcement agency involved shall provide all available victim information to the department upon request. The victim impact statement shall:</p> <ul style="list-style-type: none"> (i) identify all victims of the offense; (ii) itemize any economic loss suffered by the victim as a result of the offense; (iii) include for each identifiable victim a specific statement of the recommended amount of complete restitution as defined in Section 77-38a-302, accompanied by a recommendation from the department regarding the payment by the defendant of court-ordered restitution with interest as defined in Section 77-38a-302; (iv) identify any physical, mental, or emotional injuries suffered by the victim as a result of the offense, and the seriousness and permanence; (v) describe any change in the victim’s personal welfare or familial relationships as a result of the offense; (vi) identify any request for mental health services initiated by the victim or the victim’s family as a result of the offense; and (vii) contain any other information related to the impact of the offense upon the victim or the victim’s family that the court requires. <p>(b) The crime victim shall be responsible to provide to the department upon request all invoices, bills, receipts, and other evidence of injury, loss of earnings, and out-of-pocket loss. The crime victim shall also provide upon request:</p> <ul style="list-style-type: none"> (i) all documentation and evidence of compensation or reimbursement from insurance companies or agencies of the state of Utah, any other state, or federal government received as a direct result of the crime for injury, loss, earnings, or out-of-pocket loss; and (ii) proof of identification, including date of birth, Social Security number, drivers license number, next of kin, and home and work address and telephone numbers. <p>(c) The inability, failure, or refusal of the crime victim to provide all or part of the requested information shall result in the court determining restitution based on the best information available.</p> <p>(2)(a) The court shall order the defendant as part of the presentence investigation to:</p> <ul style="list-style-type: none"> (i) complete a financial declaration form described in Section 77-38a-204; and (ii) submit to the department any additional information determined necessary to be disclosed for the purpose of ascertaining the restitution. <p>(b) The willful failure or refusal of the defendant to provide all or part of the requisite information shall constitute a waiver of any grounds to appeal or seek future amendment or alteration of the restitution order predicated on the undisclosed information.</p> |

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| | <p>(c) If the defendant objects to the imposition, amount, or distribution of the restitution recommended in the presentence investigation, the court shall set a hearing date to resolve the matter.</p> <p>(d) If any party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, that matter shall be considered to be waived.</p> <p><i>Utah Code Ann. § 77-38a-302 (Restitution criteria).</i></p> <p>(1) When a defendant enters into a plea disposition or is convicted of criminal activity that has resulted in pecuniary damages, in addition to any other sentence or term of a plea in abeyance it may impose, the court shall order that the defendant make restitution to victims of crime as provided in this chapter, or for conduct for which the defendant has agreed to make restitution as part of a plea disposition. For purposes of restitution, “victim” means the same as that term is defined in Subsection 77-38a-102(14). In determining whether restitution is appropriate, the court shall follow the criteria and procedures as provided in Subsections (2) through (5).</p> <p>(2) In determining restitution, the court shall determine complete restitution and court-ordered restitution.</p> <p>(a) “Complete restitution” means restitution necessary to compensate a victim for all losses caused by the defendant.</p> <p>(b) “Court-ordered restitution” means the restitution the court having criminal jurisdiction orders the defendant to pay as a part of the criminal sentence.</p> <p>(c) Complete restitution and court-ordered restitution shall be determined as provided in Subsection (5).</p> <p>(3) If the court determines that restitution is appropriate or inappropriate under this part, the court shall make the reasons for the decision part of the court record.</p> <p>(4) If the defendant objects to the imposition, amount, or distribution of the restitution, the court shall allow the defendant a full hearing on the issue.</p> <p>(5)(a) For the purpose of determining restitution for an offense, the offense shall include any criminal conduct admitted by the defendant to the sentencing court or to which the defendant agrees to pay restitution. A victim of an offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity, includes any person directly harmed by the defendant’s criminal conduct in the course of the scheme, conspiracy, or pattern.</p> <p>(b) In determining the monetary sum and other conditions for complete restitution, the court shall consider all relevant facts, including:</p> <p>(i) the cost of the damage or loss if the offense resulted in damage to or loss or destruction of property of a victim of the offense;</p> |

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| | <p>(ii) the cost of necessary medical and related professional services and devices relating to physical or mental health care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;</p> <p>(iii) the cost of necessary physical and occupational therapy and rehabilitation;</p> <p>(iv) the income lost by the victim as a result of the offense;</p> <p>(v) the individual victim’s reasonable determinable wages that are lost due to theft of or damage to tools or equipment items of a trade that were owned by the victim and were essential to the victim’s current employment at the time of the offense; and</p> <p>(vi) the cost of necessary funeral and related services if the offense resulted in the death of a victim.</p> <p>(c) In determining the monetary sum and other conditions for court-ordered restitution, the court shall consider:</p> <p>(i) the factors listed in Subsections (5)(a) and (b);</p> <p>(ii) the financial resources of the defendant, as disclosed in the financial declaration described in Section 77-38a-204;</p> <p>(iii) the burden that payment of restitution will impose, with regard to the other obligations of the defendant;</p> <p>(iv) the ability of the defendant to pay restitution on an installment basis or on other conditions to be fixed by the court;</p> <p>(v) the rehabilitative effect on the defendant of the payment of restitution and the method of payment; and</p> <p>(vi) other circumstances that the court determines may make restitution inappropriate.</p> <p>(d)(i) The prosecuting agency shall submit all requests for complete restitution and court-ordered restitution to the court at the time of sentencing if feasible, otherwise within one year after sentencing.</p> <p>(ii) If a defendant is placed on probation pursuant to Section 77-18-1:</p> <p>(A) the court shall determine complete restitution and court-ordered restitution; and</p> <p>(B) the time period for determination of complete restitution and court-ordered restitution may be extended by the court upon a finding of good cause, but may not exceed the period of the probation term served by the defendant.</p> <p>(iii) If the defendant is committed to prison:</p> <p>(A) any pecuniary damages that have not been determined by the court within one year after sentencing may be determined by the Board of Pardons and Parole; and</p> <p>(B) the Board of Pardons and Parole may, within one year after sentencing, refer an order of judgment and commitment back to the court for determination of restitution.</p> |

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| Vermont | <p><i>Vt. Stat. Ann. tit. 13, § 2657 (Restitution).</i></p> <p>(a) A person convicted of a violation of this subchapter shall be ordered to pay restitution to the victim pursuant to section 7043 of this title.</p> <p>(b) If the victim of human trafficking to whom restitution has been ordered dies before restitution is paid, any restitution ordered shall be paid to the victim’s heir or legal representative, provided that the heir or legal representative has not benefited in any way from the trafficking.</p> <p>(c) The return of the victim of human trafficking to his or her home country or other absence of the victim from the jurisdiction shall not limit the victim’s right to receive restitution pursuant to this section.</p> <p><i>Vt. Stat. Ann. tit. 13, § 5301 (Definitions).</i></p> <p>As used in this chapter:</p> <p>...</p> <p>(3) “Restitution” means money or services which a court orders a defendant to pay or render to a victim as a part of the disposition.</p> <p>(4) “Victim” means a person who sustains physical, emotional, or financial injury or death as a direct result of the commission or attempted commission of a crime or act of delinquency and shall also include the family members of a minor, a person who has been found to be incompetent, or a homicide victim.</p> <p>....</p> <p><i>Vt. Stat. Ann. tit. 13, § 7043 (Restitution).</i></p> <p>(a)(1) Restitution shall be considered in every case in which a victim of a crime, as defined in subdivision 5301(4) of this title, has suffered a material loss.</p> <p>(2) For purposes of this section, “material loss” means uninsured property loss, uninsured out-of-pocket monetary loss, uninsured lost wages, and uninsured medical expenses.</p> <p>(3) In cases where restitution is ordered to the victim as a result of a human trafficking conviction under chapter 60 of this title, “material loss” shall also mean:</p> <p>(A) attorney’s fees and costs; and</p> <p>(B) the greater of either:</p> <p>(i) the gross income or value of the labor performed for the offender by the victim; or</p> <p>(ii) the value of the labor performed by the victim as guaranteed by the minimum wage and overtime provisions of 21 V.S.A. § 385.</p> <p>(b)(1) When ordered, restitution may include:</p> |

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| | <p>(A) return of property wrongfully taken from the victim;</p> <p>(B) cash, credit card, or installment payments paid to the Restitution Unit; or</p> <p>(C) payments in kind, if acceptable to the victim.</p> <p>(2) In the event of a victim’s crime-related death, the court may, at the request of the Restitution Unit, direct the Unit to pay up to \$10,000.00 from the Restitution Fund to the victim’s estate to cover future uninsured material losses caused by the death.</p> <p>(c) Restitution hearing.</p> <p>(1) Unless the amount of restitution is agreed to by the parties at the time of sentencing, the court shall set the matter for a restitution hearing.</p> <p>(2) Prior to the date of the hearing, the prosecuting attorney shall provide the defendant with a statement of the amount of restitution claimed together with copies of bills that support the claim for restitution. If any amount of the restitution claim has been paid by the Victims Compensation Fund, the prosecuting attorney shall provide the defendant with copies of bills submitted by the Victims Compensation Board pursuant to section 5358a of this title.</p> <p>(3) Absent consent of the victim, medical and mental health records submitted to the Victims Compensation Board shall not be discoverable for the purposes of restitution except by order of the court. If the defendant files a motion to view copies of such records, the prosecuting attorney shall file the records with the court under seal. The court shall conduct an in camera review of the records to determine what records, if any, are relevant to the parties’ dispute with respect to restitution. If the court orders disclosure of the documents, the court shall issue a protective order defining the extent of dissemination of the documents to any person other than the defendant, the defendant’s attorney, and the prosecuting attorney.</p> <p>(d) In awarding restitution, the court shall make findings with respect to:</p> <p>(1) The total amount of the material loss incurred by the victim. If sufficient documentation of the material loss is not available at the time of sentencing, the court shall set a hearing on the issue, and notice thereof shall be provided to the offender.</p> <p>(2) The offender’s current ability to pay restitution, based on all financial information available to the court, including information provided by the offender.</p> <p>(e)(1) An order of restitution shall establish the amount of the material loss incurred by the victim, which shall be the restitution judgment order. In the event the offender is unable to pay the restitution judgment order at the time of sentencing, the court shall establish a restitution payment schedule for the offender based upon the offender’s current and reasonably foreseeable ability to pay, subject to modification under subsection (l) of this</p> |

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| | <p>section. Notwithstanding 12 V.S.A. chapter 113 or any other provision of law, interest shall not accrue on a restitution judgment.</p> <p>(2)(A) Every order of restitution shall:</p> <ul style="list-style-type: none"> (i) include the offender’s name, address, telephone number, and Social Security number, provided that the Social Security number is redacted pursuant to the Vermont Rules for Public Access to Court Records; (ii) include the name, address, and telephone number of the offender’s employer; and (iii) require the offender, until his or her restitution obligation is satisfied, to notify the Restitution Unit within 30 days if the offender’s address, telephone number, or employment changes, including providing the name, address, and telephone number of each new employer. <p>(B) Repealed by 2005, Adj. Sess., No. 162, § 3, eff. Jan. 1, 2007.</p> <p>(3) An order of restitution may require the offender to pay restitution for an offense for which the offender was not convicted if the offender knowingly and voluntarily executes a plea agreement which provides that the offender pay restitution for that offense. A copy of the plea agreement shall be attached to the restitution order.</p> <p>(f)(1) If not paid at the time of sentencing, restitution may be ordered as a condition of probation, supervised community sentence, furlough, preapproved furlough, or parole if the convicted person is sentenced to preapproved furlough, probation, or supervised community sentence, or is sentenced to imprisonment and later placed on parole. A person shall not be placed on probation solely for purposes of paying restitution. An offender may not be charged with a violation of probation, furlough, or parole for nonpayment of a restitution obligation incurred after July 1, 2004.</p> <p>(2) The Department of Corrections shall work collaboratively with the Restitution Unit to assist with the collection of restitution. The Department shall provide the Restitution Unit with information about the location and employment status of the offender.</p> <p>(g)(1) When restitution is requested but not ordered, the court shall set forth on the record its reasons for not ordering restitution.</p> <p>(2)(A) If restitution was not requested at the time of sentencing as the result of an error by the State, or if expenses arose after the entry of a restitution order, the victim may request restitution payable from the Restitution Fund. Restitution paid under this subdivision shall be payable from the Restitution Fund and shall not be payable by the offender. If the restitution is for expenses that arose after the entry of a restitution order, the restitution shall be capped at \$1,000.00.</p> <p>(B) A request under this subdivision shall be filed with the Restitution Unit within one year after the imposition of sentence or the entry of the restitution order.</p> |

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| | <p>(h) Restitution ordered under this section shall not preclude a person from pursuing an independent civil action for all claims not covered by the restitution order.</p> <p>(i)(1) The court shall transmit a copy of a restitution order and the plea agreement, if any, to the Restitution Unit, which shall make payment to the victim in accordance with section 5363 of this title.</p> <p>(2) To the extent that the Victims Compensation Board has made payment to or on behalf of the victim in accordance with chapter 167 of this title, restitution, if imposed, shall be paid to the Restitution Unit, which shall make payment to the Victims Compensation Fund.</p> <p>(j) The Restitution Unit may bring an action, including a small claims procedure, on a form approved by the Court Administrator, to enforce a restitution judgment order entered by the Criminal Division of the Superior Court. The action shall be brought against the offender in the Civil Division of the Superior Court of the unit where the offender resides or in the unit where the order was issued. In an action under this subsection, a restitution order issued by the Criminal Division of the Superior Court shall be enforceable in the Civil Division of the Superior Court or in a small claims procedure in the same manner as a civil judgment. Superior and Small Claims Court filing fees shall be waived for an action brought under this subsection.</p> <p>(k) All restitution payments shall be made to the Restitution Unit, with the exception of restitution relating to a conviction for welfare fraud ordered under this section and recouped by the Economic Services Division. The Economic Services Division shall provide the Restitution Unit with a monthly report of all restitution collected through recoupment. This subsection shall have no effect upon the collection or recoupment of restitution ordered under Title 33.</p> <p>(l) The sentencing court may modify the payment schedule of a restitution order if, upon motion by the Restitution Unit or the offender, the court finds that modification is warranted by a substantial change in circumstances.</p> <p>(m)(1) After an enforcement action is filed pursuant to subsection (j) of this section, any further proceedings related to the action shall be heard in the court where it was filed. The court shall set the matter for hearing and shall provide notice to the Restitution Unit, the victim, and the offender. Upon filing of a motion for financial disclosure, the court may order the offender to appear at the hearing and disclose assets and liabilities and produce any documents the court deems relevant.</p> <p>(2) If the court determines the offender has failed to comply with the restitution order, the court may take any action the court deems necessary to ensure the offender will make the required restitution payment, including:</p> <p>(A) amending the payment schedule of the restitution order;</p> <p>(B) ordering, in compliance with the procedures required in Rule 4.1 of the Vermont Rules of Civil Procedure, the disclosure, attachment, and sale of assets and accounts owned by the offender;</p> |

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| | <p>(C) ordering trustee process against the offender’s wages; or (D) ordering the suspension of any recreational licenses owned by the offender. (3) If the court finds that the offender has an ability to pay and willfully refuses to do so, the offender may be subject to civil contempt proceedings under 12 V.S.A. chapter 5. (n)(1) Any monies owed by the State to an offender who is under a restitution order, including lottery winnings, unclaimed property, and tax refunds, shall be used to discharge the restitution order to the full extent of the unpaid total financial losses, regardless of the payment schedule established by the courts. (2) The Office of the Treasurer shall, prior to delivery or payment of unclaimed property valued at \$50.00 or more to a claimant pursuant to 27 V.S.A. § 1255, determine whether the claimant has an outstanding restitution order. (A) The Restitution Unit shall inform the Treasurer of persons with outstanding restitution orders. Each person subject to such an order shall be identified by name and Social Security or federal identification number. (B) If any such claimant owes restitution, the Restitution Unit, after notice to the owner, may request and the Treasurer shall transfer unclaimed property of such owner valued at \$50.00 or more to the Restitution Unit to be applied to the amount of restitution owed. The notice shall advise the owner of the action being taken and, if he or she is not the person liable under the Restitution Judgment Order, the right to appeal the setoff; or advise the owner if the underlying conviction was vacated or is under appeal. (3) When an offender is entitled to a tax refund, any restitution owed by the offender shall be withheld from the refund pursuant to 32 V.S.A. chapter 151, subchapter 12. (4)(A) For all Vermont lottery games, the Lottery Commission shall, before issuing prize money of \$500.00 or more to a winner, determine whether the winner has an outstanding restitution order. If the winner owes restitution, the Lottery Commission shall withhold the entire amount of restitution owed and pay it to the Restitution Unit. The remainder of the winnings, if any, shall be sent to the winner. The winner shall be notified by the Restitution Unit of the offset prior to payment to the victim and given a period not to exceed 20 days to contest the accuracy of the information. (B) The Restitution Unit shall inform the Lottery Commission of persons with outstanding restitution orders upon request. Each person subject to such an order shall be identified by name, address, and Social Security number. (C) If a lottery winner has an outstanding restitution order and an outstanding child support order, the lottery winnings shall be offset first pursuant to 15 V.S.A. § 792 by the amount of child support owed, and second pursuant to this subsection by the amount of restitution owed. The remainder of the winnings, if any, shall be sent to the winner.</p> |

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| | <p>(5) Unless otherwise provided, monies paid under this subsection shall be paid directly to the Restitution Unit.</p> <p>(o) After restitution is ordered and prior to sentencing, the court shall order the offender to provide the court with full financial disclosure on a form approved by the Court Administrator. The disclosure of an offender aged 18 or older shall include copies of the offender’s most recent State and federal tax returns. The court shall provide copies of the form and the tax returns to the Restitution Unit.</p> <p>(p) An obligation to pay restitution is part of a criminal sentence and is:</p> <p>(1) nondischargeable in the U.S. Bankruptcy Court to the maximum extent provided under 11 U.S.C. §§ 523 and 1328;</p> <p>(2) not subject to any statute of limitations; and</p> <p>(3) not subject to the renewal of judgment requirements of 12 V.S.A. § 506.</p> <p>(q) A transfer of property made with the intent to avoid a restitution obligation shall be deemed a fraudulent conveyance for purposes of 9 V.S.A. chapter 57, and the Restitution Unit shall be entitled to the remedies of creditors provided under 9 V.S.A. § 2291.</p> |
| <p>Virginia</p> | <p><i>Va. Const. art. I, § 8-A (Rights of victims of crime).</i></p> <p>That in criminal prosecutions, the victim shall be accorded fairness, dignity and respect by the officers, employees and agents of the Commonwealth and its political subdivisions and officers of the courts and, as the General Assembly may define and provide by law, may be accorded rights to reasonable and appropriate notice, information, restitution, protection, and access to a meaningful role in the criminal justice process. These rights may include, but not be limited to, the following:</p> <p>...</p> <p>5. The right to restitution;</p> <p>...</p> <p>This section does not confer upon any person a right to appeal or modify any decision in a criminal proceeding, does not abridge any other right guaranteed by the Constitution of the United States or this Constitution, and does not create any cause of action for compensation or damages against the Commonwealth or any of its political subdivisions, any officer, employee or agent of the Commonwealth or any of its political subdivisions, or any officer of the court.</p> <p><i>Va. Code Ann. § 18.2-186.3 (Identity theft; penalty; restitution; victim assistance).</i></p> <p>...</p> |

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| | <p>E. Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be ordered by the court to make restitution as the court deems appropriate to any person whose identifying information was appropriated or to the estate of such person. Such restitution may include the person's or his estate's actual expenses associated with correcting inaccuracies or errors in his credit report or other identifying information.</p> <p>....</p> <p><i>Va. Code Ann. § 19.2-11.01 (Crime victim and witness rights).</i></p> <p>A. In recognition of the Commonwealth's concern for the victims and witnesses of crime, it is the purpose of this chapter to ensure that the full impact of crime is brought to the attention of the courts of the Commonwealth; that crime victims and witnesses are treated with dignity, respect and sensitivity; and that their privacy is protected to the extent permissible under law. It is the further purpose of this chapter to ensure that victims and witnesses are informed of the rights provided to them under the laws of the Commonwealth; that they receive authorized services as appropriate; and that they have the opportunity to be heard by law-enforcement agencies, attorneys for the Commonwealth, corrections agencies and the judiciary at all critical stages of the criminal justice process to the extent permissible under law.</p> <p>...</p> <p>2. Financial assistance.</p> <p>...</p> <p>c. Victims shall be advised that restitution is available for damages or loss resulting from an offense and shall be assisted in seeking restitution in accordance with §§ 19.2-305, 19.2-305.1, Chapter 21.1 (§ 19.2-368.1 et seq.) of this title, Article 21 (§ 58.1-520 et seq.) of Chapter 3 of Title 58.1, and other applicable laws of the Commonwealth.</p> <p>....</p> <p><i>Va. Code Ann. § 19.2-305 (Requiring fines, costs, restitution for damages, support or community services from probationer).</i></p> <p>A. While on probation the defendant may be required to pay in one or several sums a fine or costs, or both such fine and costs, imposed at the time of being placed on probation as a condition of such probation, and the failure of the defendant to pay such fine or costs, or both such fine and costs, at the prescribed time or times may be deemed a breach of such probation. The provisions of this subsection shall also apply to any person ordered to pay costs pursuant to § 19.2-303.3.</p> |

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| | <p>B. A defendant placed on probation following conviction may be required to make at least partial restitution or reparation to the aggrieved party or parties for damages or loss caused by the offense for which conviction was had, or may be required to provide for the support of his wife or others for whose support he may be legally responsible, or may be required to perform community services. The defendant may submit a proposal to the court for making restitution, for providing for support or for performing community services.</p> <p>C. No defendant shall be kept under supervised probation solely because of his failure to make full payment of fines, fees, or costs, provided that, following notice by the probation and parole officer to each court and attorney for the Commonwealth in whose jurisdiction any fines, fees, or costs are owed by the defendant, no such court or attorney for the Commonwealth objects to his removal from supervised probation.</p> <p><i>Va. Code Ann. § 19.2-305.1 (Restitution for property damage or loss; community service).</i></p> <p>A. Notwithstanding any other provision of law, no person convicted of a crime in violation of any provision in Title 18.2, which resulted in property damage or loss, shall be placed on probation or have his sentence suspended unless such person shall make at least partial restitution for such property damage or loss, or shall be compelled to perform community services, or both, or shall submit a plan for doing that which appears to the court to be feasible under the circumstances.</p> <p>B. Notwithstanding any other provision of law, any person who, on or after July 1, 1995, commits, and is convicted of, a crime in violation of any provision in Title 18.2 shall make at least partial restitution for any property damage or loss caused by the crime or for any medical expenses or expenses directly related to funeral or burial incurred by the victim or his estate as a result of the crime, may be compelled to perform community services and, if the court so orders, shall submit a plan for doing that which appears to be feasible to the court under the circumstances.</p> <p>B1. Notwithstanding any other provision of law, any person, who on or after July 1, 2005 commits and is convicted of a crime in violation of § 18.2-248 involving the manufacture of any controlled substance, may be ordered, upon presentation of suitable evidence of such costs, by the court to reimburse the Commonwealth or the locality for the costs incurred by the jurisdiction, as the case may be, for the removal and remediation associated with the illegal manufacture of any controlled substance by the defendant.</p> <p>B2. Notwithstanding any other provision of law, any person who, on or after July 1, 2015, commits and is convicted of a violation of § 18.2-138 for damage to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police, shall be ordered to pay restitution to the Commonwealth for the full amount of damages. Any person who, on or after July 1, 2015, commits and is convicted of a violation of § 18.2-405, 18.2-407, or 18.2-408 in Capitol Square, or</p> |

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| | <p>at any other property assigned to the Capitol Police, shall be ordered to pay restitution to the Commonwealth for the full amount of damages to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police, to which damage is caused during such riot or unlawful assembly. In any prosecution under § 18.2-138, 18.2-405, 18.2-407, or 18.2-408, testimony of the Division of Engineering and Buildings of the Department of General Services or the Division of Risk Management shall be admissible as evidence of value or extent of damages or cost of repairs to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police. For the purposes of this subsection, “Capitol Square” means the grounds and the interior and exterior of all buildings in that area in the City of Richmond bounded by Bank, Governor, Broad, and Ninth Streets. “Capitol Square” includes the exterior of all state buildings that are at least 50 years old and bordering the boundary streets.</p> <p>C. At or before the time of sentencing, the court shall receive and consider any plan for making restitution submitted by the defendant. The plan shall include the defendant’s home address, place of employment and address, social security number and bank information. If the court finds such plan to be reasonable and practical under the circumstances, it may consider probation or suspension of whatever portion of the sentence that it deems appropriate. By order of the court incorporating the defendant’s plan or a reasonable and practical plan devised by the court, the defendant shall make restitution while he is free on probation or work release or following his release from confinement. Additionally, the court may order that the defendant make restitution during his confinement, if feasible, based upon both his earning capacity and net worth as determined by the court at sentencing.</p> <p>D. At the time of sentencing, the court shall determine the amount to be repaid by the defendant and the terms and conditions thereof. If community service work is ordered, the court shall determine the terms and conditions upon which such work shall be performed. The court shall include such findings in the judgment order. The order shall specify that sums paid under such order shall be paid to the clerk, who shall disburse such sums as the court may, by order, direct. The clerk shall record receipt of restitution payments in an automated financial management system operated and maintained by the Executive Secretary of the Supreme Court or such other system established and maintained by a circuit court clerk pursuant to § 17.1-502. Any court desiring to participate in the Setoff Debt Collection Act (§§ 58.1-520 through 58.1-535) for the purpose of collecting fines or costs or providing restitution shall, at the time of sentencing, obtain the social security number of each defendant.</p> <p>E. At the time of sentencing, the court shall enter the amount of restitution to be repaid by the defendant, the date by which all restitution is to be paid, the terms and conditions of such repayment, and the victim’s name</p> |

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| | <p>and contact information, including the victim’s home address, telephone number, and email address, on a form prescribed by the Office of the Executive Secretary of the Supreme Court of Virginia. If the attorney for the Commonwealth participated in the prosecution of the defendant, the attorney for the Commonwealth or his designee shall complete, to the extent possible, all portions of the form excluding the amount of restitution to be repaid by the defendant and the terms and conditions of such repayment. If the attorney for the Commonwealth did not participate in the prosecution of the defendant, the court or the clerk shall complete the form. A copy of the form, excluding contact information for the victim, shall be provided to the defendant at sentencing. A copy of the form shall be provided to the attorney for the Commonwealth and to the victim, his agent, or his estate upon request and free of charge. Except as provided in this section or otherwise required by law, the victim’s contact information shall be confidential, and the clerk shall not disclose such confidential information to any person.</p> <p>F. 1. In any case in which the court orders the defendant to pay restitution and places the defendant on probation that includes a period of active supervision, the probation agency supervising the defendant shall notify the court and the attorney for the Commonwealth of the amount of any restitution that remains unsatisfied and the last known address for the defendant (i) 60 days prior to the defendant’s release from supervision pursuant to the terms of the sentencing order or (ii) if the agency requests that the defendant be released from supervision, at the time the agency submits its request to the court. Such notice shall be in writing and the attorney for the Commonwealth shall, if practicable, provide a copy of the notice to the victim. If any amount of restitution remains unsatisfied, the court shall conduct a hearing prior to the defendant’s release from supervision after providing notice of the hearing to the defendant and the attorney for the Commonwealth. If the court finds that the defendant is not in compliance with the restitution order, the court may (a) release the defendant from supervision, (b) modify the period or terms of supervision pursuant to § 19.2-304, (c) revoke some or all of the suspended sentence or probation pursuant to § 19.2-306, or (d) proceed in accordance with subsection E of § 19.2-358. The court shall also docket the restitution order as a civil judgment pursuant to subsection B of § 19.2-305.2 unless such order has previously been docketed. Any defendant who is released from supervision shall be subject to the provisions of subdivision 3.</p> <p>2. In any case in which the court orders the defendant to pay restitution and places the defendant on probation that does not include a period of active supervision, the court shall include in the order a date, not to exceed two years from the date of the entry of the order or, if the court has sentenced the defendant to an active term of incarceration, from the date of the defendant’s release from incarceration, on which the defendant’s compliance with the restitution order shall be reviewed and the court shall schedule a hearing for such date. The court may, on its own motion, cancel the hearing if the amount of restitution has been satisfied. If at the hearing the court</p> |

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| | <p>finds that the defendant is not in compliance with the restitution order, the court may (i) modify the period or terms of probation pursuant to § 19.2-304, (ii) revoke some or all of the suspended sentence or probation pursuant to § 19.2-306, or (iii) proceed in accordance with the provisions of subsection E of § 19.2-358. The court shall also docket the restitution order as a civil judgment pursuant to subsection B of § 19.2-305.2 unless such order has previously been docketed. After the hearing conducted pursuant to this subdivision, the defendant shall be subject to the provisions of subdivision 3.</p> <p>3. If any amount of restitution remains unsatisfied at the time of a hearing conducted pursuant to subdivision 1 or 2, the court shall continue to schedule hearings to review the defendant’s compliance with the restitution order until the amount of restitution has been satisfied and provide notice of such hearings to the defendant. The court may, on its own motion, cancel any such hearing if the amount of restitution has been satisfied or if the defendant is in compliance with the restitution order. If at any hearing conducted pursuant to this subdivision the court finds that the defendant is not in compliance with the restitution order, the court may (i) modify the period or terms of probation pursuant to § 19.2-304, (ii) revoke some or all of the suspended sentence or probation pursuant to § 19.2-306, or (iii) proceed in accordance with the provisions of subsection E of § 19.2-358. The court shall follow the procedures set forth in this subdivision for the purpose of reviewing compliance with a restitution order by a defendant (a) until the amount of restitution has been satisfied or (b) if any amount of restitution remains unsatisfied, for the longer of 10 years from the date of the hearing held pursuant to subdivision 1 or 2 or the period of probation ordered by the court.</p> <p>4. If the court determines at any hearing conducted pursuant to this subsection that the defendant is unable to pay restitution and will remain unable to pay restitution for the duration of the review period set forth in subdivision 3, the court may discontinue any further hearings to review a defendant’s compliance with the restitution order.</p> <p>5. If the court determines that a defendant would be incarcerated on the date of any hearing scheduled pursuant to this subsection, the court may remove the case from the docket, reschedule such hearing to a date after the defendant’s release from incarceration, and provide notice of the hearing to the defendant and the attorney for the Commonwealth. If the defendant who is on probation that includes a period of active supervision is incarcerated, the probation agency supervising the defendant shall notify the court when the defendant has been released from incarceration.</p> <p>6. No provision of this subsection shall be construed to prohibit the court from exercising any authority otherwise granted by law over a defendant during any period of probation ordered by the court.</p> |

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| | <p>G. Unreasonable failure to execute the plan by the defendant shall result in revocation of the probation or imposition of the suspended sentence. A hearing shall be held in accordance with the provisions of this Code relating to revocation of probation or imposition of a suspended sentence before either such action is taken.</p> <p>H. A defendant convicted of an offense under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3 shall be ordered to pay mandatory restitution to the victim of the offense in an amount as determined by the court. For purposes of this subsection, “victim” means a person who is depicted in a still or videographic image involved in an offense under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3.</p> <p>The Commonwealth shall make reasonable efforts to notify victims of offenses under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3.</p> <p>I. If restitution is ordered to be paid by the defendant to the victim of a crime and the victim can no longer be located or identified, the clerk shall deposit any such restitution collected to the Criminal Injuries Compensation Fund for the benefit of crime victims by November 1 of each year. If a clerk does not have any such restitution to deposit, the clerk shall provide a statement to that effect to the Fund by November 1 of each year. The administrator shall reserve a sum sufficient in the Fund from which he shall make prompt payment directly to the victim for any proper claims.</p> <p>When depositing such restitution to the Fund, the clerk shall report the victim’s last known contact information, including the victim’s home address, telephone number, and email address, and the amount of restitution being deposited for that victim. Before making the deposit, the administrator shall record the name, contact information, and amount of restitution being deposited for each victim appearing from the clerk’s report to be entitled to restitution. The victim’s contact information reported to the Fund shall be confidential and shall not be disseminated further except as otherwise required by law.</p> <p>J. If restitution pursuant to § 19.2-305 or this section is ordered to be paid by the defendant to the victim of a crime or other entity, and the Criminal Injuries Compensation Fund has made any payments to or on behalf of the victim for any loss, damage, or expenses included in the restitution order, then upon presentation by the Fund of a written request that sets forth the amount of payments made by the Fund to the victim or on the victim’s behalf, the entity collecting restitution shall pay to the Fund as much of the restitution collected as will reimburse the Fund for its payments made to the victim or on the victim’s behalf.</p> <p>K. Whenever a defendant is ordered to pay restitution, any sums collected shall be used first to satisfy such restitution order and any collection costs associated with restitution prior to being used to satisfy any fine, forfeiture, penalty, or cost assessed against the defendant.</p> <p><i>Va. Code Ann. § 19.2-305.2 (Amount of restitution; enforcement).</i></p> |

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| | <p>A. The court, when ordering restitution pursuant to § 19.2-305.1, may require that such defendant, in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense, (i) return the property to the owner or (ii) if return of the property is impractical or impossible, pay an amount equal to the greater of the value of the property at the time of the offense or the value of the property at the time of sentencing.</p> <p>B. An order of restitution may be docketed as provided in § 8.01-446 when so ordered by the court or upon written request of the victim and may be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action. Enforcement by a victim of any order of restitution docketed as provided in § 8.01-446 is not subject to any statute of limitations. Such docketing shall not be construed to prohibit the court from exercising any authority otherwise available to enforce the order of restitution.</p> |
| <p>Washington</p> | <p><i>Wash. Rev. Code Ann. § 7.69.030 (Rights of victims, survivors, and witnesses).</i> There shall be a reasonable effort made to ensure that victims, survivors of victims, and witnesses of crimes have the following rights, which apply to any criminal court and/or juvenile court proceeding:</p> <p>...</p> <p>(15) With respect to victims and survivors of victims, to entry of an order of restitution by the court in all felony cases, even when the offender is sentenced to confinement, unless extraordinary circumstances exist which make restitution inappropriate in the court's judgment.</p> <p><i>Wash. Rev. Code Ann. § 9.94A.750 (Restitution).</i> This section applies to offenses committed on or before July 1, 1985. (1) If restitution is ordered, the court shall determine the amount of restitution due at the sentencing hearing or within one hundred eighty days. The court may continue the hearing beyond the one hundred eighty days for good cause. The court shall then set a minimum monthly payment that the offender is required to make towards the restitution that is ordered. The court shall not issue any order that postpones the commencement of restitution payments until after the offender is released from total confinement. The court should take into consideration the total amount of the restitution owed, the offender's present, past, and future ability to pay, as well as any assets that the offender may have. An offender's inability to make restitution payments while in total confinement may not be the basis for a violation of his or her sentence unless his or her inability to make payments resulted from a refusal to accept an employment offer to a class I or class II job or a termination for cause from such a job.</p> |

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| | <p>(2) During the period of supervision, the community corrections officer may examine the offender to determine if there has been a change in circumstances that warrants an amendment of the monthly payment schedule. The community corrections officer may recommend a change to the schedule of payment and shall inform the court of the recommended change and the reasons for the change. The sentencing court may then reset the monthly minimum payments based on the report from the community corrections officer of the change in circumstances.</p> <p>(3) Except as provided in subsection (6) of this section, restitution ordered by a court pursuant to a criminal conviction shall be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses, but may include the costs of counseling reasonably related to the offense. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the offense.</p> <p>(4) For the purposes of this section, the offender shall remain under the court's jurisdiction for a term of ten years following the offender's release from total confinement or ten years subsequent to the entry of the judgment and sentence, whichever period is longer. Prior to the expiration of the initial ten-year period, the superior court may extend jurisdiction under the criminal judgment an additional ten years for payment of restitution. The portion of the sentence concerning restitution may be modified as to amount, terms and conditions during either the initial ten-year period or subsequent ten-year period if the criminal judgment is extended, regardless of the expiration of the offender's term of community supervision and regardless of the statutory maximum sentence for the crime. The court may not reduce the total amount of restitution ordered because the offender may lack the ability to pay the total amount. The offender's compliance with the restitution shall be supervised by the department only during any period which the department is authorized to supervise the offender in the community under RCW 9.94A.728, 9.94A.501, or in which the offender is in confinement in a state correctional institution or a correctional facility pursuant to a transfer agreement with the department, and the department shall supervise the offender's compliance during any such period. The department is responsible for supervision of the offender only during confinement and authorized supervision and not during any subsequent period in which the offender remains under the court's jurisdiction. The county clerk is authorized to collect unpaid restitution at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations.</p> <p>(5) Restitution may be ordered whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property or as provided in subsection (6) of this section. In addition, restitution may be ordered to pay for an injury, loss, or damage if the offender pleads guilty to a lesser offense or fewer</p> |

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| | <p>offenses and agrees with the prosecutor’s recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement.</p> <p>(6) Restitution for the crime of rape of a child in the first, second, or third degree, in which the victim becomes pregnant, shall include: (a) All of the victim’s medical expenses that are associated with the rape and resulting pregnancy; and (b) child support for any child born as a result of the rape if child support is ordered pursuant to a proceeding in superior court or administrative order for support for that child. The clerk must forward any restitution payments made on behalf of the victim’s child to the Washington state child support registry under chapter 26.23 RCW. Identifying information about the victim and child shall not be included in the order. The offender shall receive a credit against any obligation owing under the administrative or superior court order for support of the victim’s child. For the purposes of this subsection, the offender shall remain under the court’s jurisdiction until the offender has satisfied support obligations under the superior court or administrative order but not longer than a maximum term of twenty-five years following the offender’s release from total confinement or twenty-five years subsequent to the entry of the judgment and sentence, whichever period is longer. The court may not reduce the total amount of restitution ordered because the offender may lack the ability to pay the total amount. The department shall supervise the offender’s compliance with the restitution ordered under this subsection.</p> <p>(7) In addition to any sentence that may be imposed, an offender who has been found guilty of an offense involving fraud or other deceptive practice or an organization which has been found guilty of any such offense may be ordered by the sentencing court to give notice of the conviction to the class of persons or to the sector of the public affected by the conviction or financially interested in the subject matter of the offense by mail, by advertising in designated areas or through designated media, or by other appropriate means.</p> <p>(8) This section does not limit civil remedies or defenses available to the victim or offender including support enforcement remedies for support ordered under subsection (6) of this section for a child born as a result of a rape of a child victim.</p> <p>The court shall identify in the judgment and sentence the victim or victims entitled to restitution and what amount is due each victim. The state or victim may enforce the court-ordered restitution in the same manner as a judgment in a civil action. Restitution collected through civil enforcement must be paid through the registry of the court and must be distributed proportionately according to each victim’s loss when there is more than one victim.</p> <p><i>Wash. Rev. Code Ann. § 9.94A.753 (Restitution – Application dates).</i> This section applies to offenses committed after July 1, 1985.</p> |

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| | <p>(1) When restitution is ordered, the court shall determine the amount of restitution due at the sentencing hearing or within one hundred eighty days except as provided in subsection (7) of this section. The court may continue the hearing beyond the one hundred eighty days for good cause. The court shall then set a minimum monthly payment that the offender is required to make towards the restitution that is ordered. The court shall not issue any order that postpones the commencement of restitution payments until after the offender is released from total confinement. The court should take into consideration the total amount of the restitution owed, the offender's present, past, and future ability to pay, as well as any assets that the offender may have. An offender's inability to make restitution payments while in total confinement may not be the basis for a violation of his or her sentence unless his or her inability to make payments resulted from a refusal to accept an employment offer to a class I or class II job or a termination for cause from such a job.</p> <p>(2) During the period of supervision, the community corrections officer may examine the offender to determine if there has been a change in circumstances that warrants an amendment of the monthly payment schedule. The community corrections officer may recommend a change to the schedule of payment and shall inform the court of the recommended change and the reasons for the change. The sentencing court may then reset the monthly minimum payments based on the report from the community corrections officer of the change in circumstances.</p> <p>(3) Except as provided in subsection (6) of this section, restitution ordered by a court pursuant to a criminal conviction shall be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses, but may include the costs of counseling reasonably related to the offense. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime.</p> <p>(4) For the purposes of this section, for an offense committed prior to July 1, 2000, the offender shall remain under the court's jurisdiction for a term of ten years following the offender's release from total confinement or ten years subsequent to the entry of the judgment and sentence, whichever period ends later. Prior to the expiration of the initial ten-year period, the superior court may extend jurisdiction under the criminal judgment an additional ten years for payment of restitution. For an offense committed on or after July 1, 2000, the offender shall remain under the court's jurisdiction until the obligation is completely satisfied, regardless of the statutory maximum for the crime. The portion of the sentence concerning restitution may be modified as to amount, terms, and conditions during any period of time the offender remains under the court's jurisdiction, regardless of the expiration of the offender's term of community supervision and regardless of the statutory maximum sentence for the crime. The court may not reduce the total amount of restitution ordered because the offender may lack the ability to pay the total amount. The offender's compliance with the restitution shall be</p> |

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| | <p>supervised by the department only during any period which the department is authorized to supervise the offender in the community under RCW 9.94A.728, 9.94A.501, or in which the offender is in confinement in a state correctional institution or a correctional facility pursuant to a transfer agreement with the department, and the department shall supervise the offender's compliance during any such period. The department is responsible for supervision of the offender only during confinement and authorized supervision and not during any subsequent period in which the offender remains under the court's jurisdiction. The county clerk is authorized to collect unpaid restitution at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations.</p> <p>(5) Restitution shall be ordered whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property or as provided in subsection (6) of this section unless extraordinary circumstances exist which make restitution inappropriate in the court's judgment and the court sets forth such circumstances in the record. In addition, restitution shall be ordered to pay for an injury, loss, or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement.</p> <p>(6) Restitution for the crime of rape of a child in the first, second, or third degree, in which the victim becomes pregnant, shall include: (a) All of the victim's medical expenses that are associated with the rape and resulting pregnancy; and (b) child support for any child born as a result of the rape if child support is ordered pursuant to a civil superior court or administrative order for support for that child. The clerk must forward any restitution payments made on behalf of the victim's child to the Washington state child support registry under chapter 26.23 RCW. Identifying information about the victim and child shall not be included in the order. The offender shall receive a credit against any obligation owing under the administrative or superior court order for support of the victim's child. For the purposes of this subsection, the offender shall remain under the court's jurisdiction until the offender has satisfied support obligations under the superior court or administrative order for the period provided in RCW 4.16.020 or a maximum term of twenty-five years following the offender's release from total confinement or twenty-five years subsequent to the entry of the judgment and sentence, whichever period is longer. The court may not reduce the total amount of restitution ordered because the offender may lack the ability to pay the total amount. The department shall supervise the offender's compliance with the restitution ordered under this subsection.</p> <p>(7) Regardless of the provisions of subsections (1) through (6) of this section, the court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW. If the court does not order restitution and the victim of the crime has been determined to be entitled to benefits</p> |

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| | <p>under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the court within one year of entry of the judgment and sentence for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the court shall hold a restitution hearing and shall enter a restitution order.</p> <p>(8) In addition to any sentence that may be imposed, an offender who has been found guilty of an offense involving fraud or other deceptive practice or an organization which has been found guilty of any such offense may be ordered by the sentencing court to give notice of the conviction to the class of persons or to the sector of the public affected by the conviction or financially interested in the subject matter of the offense by mail, by advertising in designated areas or through designated media, or by other appropriate means.</p> <p>(9) This section does not limit civil remedies or defenses available to the victim, survivors of the victim, or offender including support enforcement remedies for support ordered under subsection (6) of this section for a child born as a result of a rape of a child victim. The court shall identify in the judgment and sentence the victim or victims entitled to restitution and what amount is due each victim. The state or victim may enforce the court-ordered restitution in the same manner as a judgment in a civil action. Restitution collected through civil enforcement must be paid through the registry of the court and must be distributed proportionately according to each victim's loss when there is more than one victim.</p> <p>(10) If a person has caused a victim to lose money or property through the filing of a vehicle report of sale in which the designated buyer had no knowledge of the vehicle transfer or the fraudulent filing of the report of sale, upon conviction or when the offender pleads guilty and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim, the court may order the defendant to pay an amount, fixed by the court, not to exceed double the amount of the defendant's gain or victim's loss from the filing of the vehicle report of sale in which the designated buyer had no knowledge of the vehicle transfer or the fraudulent filing of the report of sale. Such an amount may be used to provide restitution to the victim at the order of the court. It is the duty of the prosecuting attorney to investigate the alternative of restitution, and to recommend it to the court, when the prosecuting attorney believes that restitution is appropriate and feasible. If the court orders restitution, the court must make a finding as to the amount of the victim's loss due to the filing of the report of sale in which the designated buyer had no knowledge of the vehicle transfer or the fraudulent filing of the report of sale, and if the record does not contain sufficient evidence to support such finding, the court may conduct a hearing upon the issue. For purposes of this section, "loss" refers to the amount of money or the value of property or services lost.</p> <p><i>Wash. Rev. Code Ann. § 9.94A.760 (Legal financial obligations).</i></p> |

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| | <p>(1) Whenever a person is convicted in superior court, the court may order the payment of a legal financial obligation as part of the sentence. The court may not order an offender to pay costs as described in RCW 10.01.160 if the court finds that the offender at the time of sentencing is indigent as defined in RCW 10.101.010(3) (a) through (c). An offender being indigent as defined in RCW 10.101.010(3) (a) through (c) is not grounds for failing to impose restitution or the crime victim penalty assessment under RCW 7.68.035. The court must on either the judgment and sentence or on a subsequent order to pay, designate the total amount of a legal financial obligation and segregate this amount among the separate assessments made for restitution, costs, fines, and other assessments required by law. On the same order, the court is also to set a sum that the offender is required to pay on a monthly basis towards satisfying the legal financial obligation. If the court fails to set the offender monthly payment amount, the department shall set the amount if the department has active supervision of the offender, otherwise the county clerk shall set the amount.</p> <p>....</p> <p><i>Wash. Rev. Code Ann. § 9A.20.030 (Alternative to a fine – Restitution).</i></p> <p>(1) If a person has gained money or property or caused a victim to lose money or property through the commission of a crime, upon conviction thereof or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor’s recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement, the court, in lieu of imposing the fine authorized for the offense under RCW 9A.20.020, may order the defendant to pay an amount, fixed by the court, not to exceed double the amount of the defendant’s gain or victim’s loss from the commission of a crime. Such amount may be used to provide restitution to the victim at the order of the court. It shall be the duty of the prosecuting attorney to investigate the alternative of restitution, and to recommend it to the court, when the prosecuting attorney believes that restitution is appropriate and feasible. If the court orders restitution, the court shall make a finding as to the amount of the defendant’s gain or victim’s loss from the crime, and if the record does not contain sufficient evidence to support such finding the court may conduct a hearing upon the issue. For purposes of this section, the terms “gain” or “loss” refer to the amount of money or the value of property or services gained or lost.</p> <p>(2) Notwithstanding any other provision of law, this section also applies to any corporation or joint stock association found guilty of any crime.</p> |
| West Virginia | <i>W. Va. Code Ann. § 61-11A-1 (Legislative findings and purpose).</i> |

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| | <p>(a) The legislature finds and declares that without the cooperation of victims and witnesses, the criminal justice system would cease to function, yet too often these individuals are either ignored by the criminal justice system or simply used as tools to identify and punish offenders.</p> <p>The legislature finds further that all too often the victim of a serious crime is forced to suffer physical, psychological or financial hardship first as a result of the criminal act and then as a result of contact with a criminal justice system not totally responsive to the needs of such victims.</p> <p>The legislature finds further that under the current law, law-enforcement agencies must have cooperation from a victim of crime and yet neither the agencies nor the legal system can offer adequate protection or assistance when the victim, as a result of such cooperation, is threatened or intimidated.</p> <p>The legislature finds further that while the defendant is provided with counsel who can explain both the criminal justice process and the rights of the defendant, the victim or witness has no counterpart and is usually not even notified when the defendant is released on bail, the case is dismissed, a plea to a lesser charge is accepted or a court date is changed.</p> <p>The legislature finds further that the victim or witness who cooperates with the prosecutor often finds that the transportation, parking facilities and child care services at the court are unsatisfactory and they must often share the pretrial waiting room with the defendant or his family and friends.</p> <p>The legislature finds further that the victim may lose valuable property to a criminal only to lose it again for long periods of time to law-enforcement officials, until the trial and appeals are over; many times the property is damaged or lost, which is particularly stressful for the elderly or poor.</p> <p>(b) The legislature declares that the purposes of this article are to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process and to ensure that the state and local governments do all that is possible within the limits of available resources to assist victims and witnesses of crime without infringing on the constitutional rights of the defendant.</p> <p><i>W. Va. Code Ann. § 61-11A-4 (Restitution; when ordered).</i></p> <p>(a) The court, when sentencing a defendant convicted of a felony or misdemeanor causing physical, psychological or economic injury or loss to a victim, shall order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to any victim of the offense, unless the court finds restitution to be wholly or partially impractical as set forth in this article.</p> <p>If the court does not order restitution, or orders only partial restitution, under this section, the court shall state on the record the reasons therefor.</p> <p>(b) The order shall require that the defendant:</p> |

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| | <p>(1) In the case of an offense resulting in damage to, loss of, or destruction of property of a victim of the offense:</p> <p>(A) Return the property to the owner of the property or someone designated by the owner; or</p> <p>(B) If return of the property under subparagraph (A) is impossible, impractical or inadequate, pay an amount equal to the greater of: (i) The value of the property on the date of sentencing; or (ii) the value of the property on the date of the damage, loss or destruction less the value (as of the date the property is returned) of any part of the property that is returned;</p> <p>(2) In the case of an offense resulting in bodily injury to a victim:</p> <p>(A) Pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;</p> <p>(B) Pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and</p> <p>(C) Reimburse the victim for income lost by the victim as a result of the offense;</p> <p>(3) In the case of an offense resulting in bodily injury that also results in the death of a victim, pay an amount equal to the cost of necessary funeral and related services; and</p> <p>(4) In any case, if the victim (or if the victim is deceased, the victim’s estate) consents, or if payment is impossible or impractical, make restitution in services in lieu of money, or make restitution to a person or organization designated by the victim or the estate.</p> <p>(c) If the court decides to order restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim’s estate.</p> <p>(d) The court shall impose an order of restitution to the extent that the order is as fair as possible to the victim and the imposition of the order will not unduly complicate or prolong the sentencing process.</p> <p>(e) The court shall not impose restitution with respect to a loss for which the victim has received or is to receive compensation, except that the court may, in the interest of justice, order restitution to any person who has compensated the victim for loss to the extent that the person paid the compensation. An order of restitution shall require that all restitution to victims under the order be made before any restitution to any other person under the order is made.</p> <p>(f) The court may require that such defendant make restitution under this section within a specified period or in specified installments. The end of the period or the last installment shall not be later than: (i) The end of the period of probation, if probation is ordered; (ii) five years after the end of the term of imprisonment imposed, if the court does not order probation; and (iii) five years after the date of sentencing in any other case.</p> <p>If not otherwise provided by the court under this subsection, restitution shall be made immediately.</p> |

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| | <p>(g) If the defendant is placed on probation or paroled under this article, any restitution ordered under this section shall be a condition of the probation or parole unless the court or Parole Board finds restitution to be wholly or partially impractical as set forth in this article.</p> <p>The court may revoke probation and the Parole Board may revoke parole if the defendant fails to comply with the order. In determining whether to revoke probation or parole, the court or parole board shall consider the defendant’s employment status, earning ability, financial resources, the willfulness of the defendant’s failure to pay, and any other special circumstances that may have a bearing on the defendant’s ability to pay.</p> <p>(h) An order of restitution may be enforced by the state or a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.</p> <p>(i) Notwithstanding any provision of this section to the contrary, the court may order, in addition to or in lieu of, restitution, that a defendant be required to contribute monetarily, or through hours of service, to a local crime victim’s assistance program or juvenile mediation program which meets the following requirements:</p> <ol style="list-style-type: none"> (1) The program is approved by a circuit judge presiding in the judicial circuit; and (2) The program is a nonprofit organization certified as a corporation in this state, and is governed by a board of directors. <p><i>W. Va. Code Ann. § 61-11A-5 (Restitution; procedure for issuing order).</i></p> <p>(a) The court, in determining whether to order restitution under this article, and in determining the amount of such restitution, shall consider the amount of the loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant’s dependents, and such factors as the court deems appropriate.</p> <p>(b) The court may order the probation officer of the court to obtain information pertaining to the factors set forth in subsection (a) of this section. The probation officer of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs.</p> <p>(c) The court shall disclose to both the defendant and the prosecuting attorney all portions of the presentence or other report pertaining to the matters described in subsection (a) of this section.</p> <p>(d) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the prosecuting attorney. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant and such defendant’s dependents shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.</p> |

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| | <p><i>W. Va. Code Ann. § 61-3-24g (Workers' compensation health care offenses; fraud; theft or embezzlement; false statements; penalties; notice; prohibition against providing future services; penalties asset forfeiture; venue).</i></p> <p>...</p> <p>(5) Any person convicted under the provisions of this section shall, after such conviction, be barred from providing future services or supplies to injured employees for the purposes of workers' compensation and shall cease to receive payment for services or supplies.</p> <p>In addition to any other penalty imposed, the court shall order any defendant convicted under this section to make full restitution of all moneys paid by or due to the workers' compensation fund, private carrier or self-insured employer as the result of a violation of this section. The restitution ordered shall constitute a judgment against the defendant and in favor of the state of West Virginia workers' compensation commission, insurance commissioner, private carrier or self-insured employer.</p> <p>....</p> <p><i>W. Va. Code Ann. § 61-3-39o (Agreement to suspend prosecution of a person accepted into the restitution program).</i></p> <p>(a) The prosecuting attorney may enter into an agreement with a participant of the worthless check restitution program to suspend prosecution for a period to be determined by the prosecuting attorney.</p> <p>(b) To remain eligible for the worthless check restitution program, the participant shall:</p> <ol style="list-style-type: none"> (1) Contact a representative of the program before the date required by the notice sent pursuant to section thirty-nine-n of this article; (2) Agree to comply with all the program terms; (3) Complete a class conducted by the prosecuting attorney, his or her designee, or a private entity under contract with the prosecuting attorney, which offers offender education and instruction; (4) Pay a fee in the amount of ten dollars to be deposited in the "worthless check fund" established pursuant to the provisions of section thirty-nine-h of this article; (5) Pay the fee required to participate in the class; (6) Pay full victim restitution; and (7) Pay all fees for participation in the program, unless those fees are waived. <p>(c) The prosecuting attorney shall agree not to file criminal charges if the participant in the program completes the conditions of the agreement.</p> |

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| | <p><i>W. Va. Code Ann. § 61-8B-13 (Payment of treatment cost for victim).</i> In addition to any penalty provided under this article and any restitution, which may be ordered by the court under article eleven-a of this chapter, the court may order any person convicted under the provisions of this article to pay all or any portion of the cost of medical, psychological or psychiatric treatment of the victim, the need for which results from the act or acts for which the defendant is convicted, whether or not the victim is considered to have sustained bodily injury.</p> |
| <p>Wisconsin</p> | <p><i>Wis. Const. art. I, § 9m (Victims of crime).</i> Section 9m. This state shall treat crime victims, as defined by law, with fairness, dignity and respect for their privacy. This state shall ensure that crime victims have all of the following privileges and protections as provided by law: timely disposition of the case; the opportunity to attend court proceedings unless the trial court finds sequestration is necessary to a fair trial for the defendant; reasonable protection from the accused throughout the criminal justice process; notification of court proceedings; the opportunity to confer with the prosecution; the opportunity to make a statement to the court at disposition; restitution; compensation; and information about the outcome of the case and the release of the accused. The legislature shall provide remedies for the violation of this section. Nothing in this section, or in any statute enacted pursuant to this section, shall limit any right of the accused which may be provided by law.</p> <p><i>Wis. Stat. Ann. § 950.04 (Basic bill of rights for victims and witnesses).</i> (1v) Rights of victims. Victims of crimes have the following rights: . . . (q) To restitution, as provided under ss. 938.245 (2)(a)5., 938.32 (1t), 938.34 (5), 938.345, 943.212, 943.23 (6), 943.245, 943.51 and 973.20. (qm) To recompense as provided under s. 969.13(5)(a). (r) To a judgment for unpaid restitution, as provided under ss. 895.035 (2m) and 973.09 (3)(b). </p> <p><i>Wis. Stat. Ann. § 973.20 (Restitution).</i> (1g) In this section: (a) “Crime considered at sentencing” means any crime for which the defendant was convicted and any read-in crime.</p> |

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| | <p>(b) “Read-in crime” means any crime that is uncharged or that is dismissed as part of a plea agreement, that the defendant agrees to be considered by the court at the time of sentencing and that the court considers at the time of sentencing the defendant for the crime for which the defendant was convicted.</p> <p>(1r) When imposing sentence or ordering probation for any crime, other than a crime involving conduct that constitutes domestic abuse under s. 813.12(1)(a) or 968.075(1)(a), for which the defendant was convicted, the court, in addition to any other penalty authorized by law, shall order the defendant to make full or partial restitution under this section to any victim of a crime considered at sentencing or, if the victim is deceased, to his or her estate, unless the court finds substantial reason not to do so and states the reason on the record. When imposing sentence or ordering probation for a crime involving conduct that constitutes domestic abuse under s. 813.12(1)(a) or 968.075(1)(a) for which the defendant was convicted or that was considered at sentencing, the court, in addition to any other penalty authorized by law, shall order the defendant to make full or partial restitution under this section to any victim of a crime or, if the victim is deceased, to his or her estate, unless the court finds that imposing full or partial restitution will create an undue hardship on the defendant or victim and describes the undue hardship on the record. Restitution ordered under this section is a condition of probation, extended supervision, or parole served by the defendant for a crime for which the defendant was convicted. After the termination of probation, extended supervision, or parole, or if the defendant is not placed on probation, extended supervision, or parole, restitution ordered under this section is enforceable in the same manner as a judgment in a civil action by the victim named in the order to receive restitution or enforced under ch. 785.</p> <p>(2) If a crime considered at sentencing resulted in damage to or loss or destruction of property, the restitution order may require that the defendant:</p> <ul style="list-style-type: none"> (a) Return the property to the owner or owner’s designee; or (b) If return of the property under par. (a) is impossible, impractical or inadequate, pay the owner or owner’s designee the reasonable repair or replacement cost or the greater of: <ul style="list-style-type: none"> 1. The value of the property on the date of its damage, loss or destruction; or 2. The value of the property on the date of sentencing, less the value of any part of the property returned, as of the date of its return. The value of retail merchandise shall be its retail value. <p>(3) If a crime considered at sentencing resulted in bodily injury, the restitution order may require that the defendant do one or more of the following:</p> <ul style="list-style-type: none"> (a) Pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric and psychological care and treatment. (b) Pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation. |

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| | <p>(c) Reimburse the injured person for income lost as a result of a crime considered at sentencing.</p> <p>(d) If the injured person's sole employment at the time of the injury was performing the duties of a homemaker, pay an amount sufficient to ensure that the duties are continued until the person is able to resume performance of the duties.</p> <p>(4) If a crime considered at sentencing resulted in death, the restitution order may also require that the defendant pay an amount equal to the cost of necessary funeral and related services under s. 895.04(5).</p> <p>(4m) If the defendant violated s. 940.225, 948.02, 948.025, 948.05, 948.051, 948.06, 948.07, 948.08, or 948.085, or s. 940.302(2), if the court finds that the crime was sexually motivated, as defined in s. 980.01(5), and sub. (3)(a) does not apply, the restitution order may require that the defendant pay an amount, not to exceed \$10,000, equal to the cost of necessary professional services relating to psychiatric and psychological care and treatment. The \$10,000 limit under this subsection does not apply to the amount of any restitution ordered under sub. (3) or (5) for the cost of necessary professional services relating to psychiatric and psychological care and treatment.</p> <p>(4o) If the defendant violated s. 940.302(2) or 948.051, and sub. (2) or (3) does not apply, the restitution order may require that the defendant pay an amount equal to any of the following:</p> <p>(a) The costs of necessary transportation, housing, and child care for the victim.</p> <p>(b) The greater of the following:</p> <ol style="list-style-type: none"> 1. The gross income gained by the defendant due to the services of the victim. 2. The value of the victim's services as provided under the state minimum wage. <p>(c) Any expenses incurred by the victim if relocation for personal safety is determined to be necessary by the district attorney.</p> <p>(d) The costs of relocating the victim to his or her city, state, or country of origin.</p> <p>(5) In any case, the restitution order may require that the defendant do one or more of the following:</p> <p>(a) Pay all special damages, but not general damages, substantiated by evidence in the record, which could be recovered in a civil action against the defendant for his or her conduct in the commission of a crime considered at sentencing.</p> <p>(b) Pay an amount equal to the income lost, and reasonable out-of-pocket expenses incurred, by the person against whom a crime considered at sentencing was committed resulting from the filing of charges or cooperating in the investigation and prosecution of the crime.</p> <p>(c) Reimburse any person or agency for amounts paid as rewards for information leading to the apprehension or successful prosecution of the defendant for a crime for which the defendant was convicted or to the apprehension or prosecution of the defendant for a read-in crime.</p> |

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| | <p>(d) If justice so requires, reimburse any insurer, surety or other person who has compensated a victim for a loss otherwise compensable under this section.</p> <p>(6) Any order under sub. (5)(c) or (d) shall require that all restitution to victims under the order be paid before restitution to other persons.</p> <p>(7) If the court orders that restitution be paid to more than one person, the court may direct the sequence in which payments are to be transferred under sub. (11)(a). If more than one defendant is ordered to make payments to the same person, the court may apportion liability between the defendants or specify joint and several liability. If the court specifies that 2 or more defendants are jointly and severally liable, the department or the clerk to whom payments are made under sub. (11)(a) shall distribute any overpayments so that each defendant, as closely as possible, pays the same proportion of the ordered restitution.</p> <p>(8) Restitution ordered under this section does not limit or impair the right of a victim to sue and recover damages from the defendant in a civil action. The facts that restitution was required or paid are not admissible as evidence in a civil action and have no legal effect on the merits of a civil action. Any restitution made by payment or community service shall be set off against any judgment in favor of the victim in a civil action arising out of the facts or events which were the basis for the restitution. The court trying the civil action shall hold a separate hearing to determine the validity and amount of any setoff asserted by the defendant.</p> <p>(9)(a) If a crime victim is paid an award under subch. I of ch. 949 for any loss arising out of a criminal act, the state is subrogated to the rights of the victim to any restitution required by the court. The rights of the state are subordinate to the claims of victims who have suffered a loss arising out of the offenses or any transaction which is part of the same continuous scheme of criminal activity.</p> <p>(b) When restitution is ordered, the court shall inquire to see if an award has been made under subch. I of ch. 949 and if the department of justice is subrogated to the cause of action under s. 949.15. If the restitution ordered is less than or equal to the award under subch. I of ch. 949, the restitution shall be credited to the appropriation account under s. 20.455(5)(hh). If the restitution ordered is greater than the award under subch. I of ch. 949, an amount equal to the award under subch. I of ch. 949 shall be credited to the appropriation account under s. 20.455(5)(hh) and the balance shall be paid to the victim.</p> <p>(9m) When restitution is ordered, the court shall inquire to see if recompense has been made under s. 969.13(5)(a). If recompense has been made and the restitution ordered is less than or equal to the recompense, the restitution shall be applied to the payment of costs and, if any restitution remains after the payment of costs, to the payment of the judgment. If recompense has been made and the restitution ordered is greater than the recompense, the victim shall receive an amount equal to the amount of restitution less the amount of recompense and the balance shall be applied to the payment of costs and, if any restitution remains after the</p> |

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| | <p>payment of costs, to the payment of the judgment. This subsection applies without regard to whether the person who paid the recompense is the person who is convicted of the crime.</p> <p>(10)(a) The court may require that restitution be paid immediately, within a specified period or in specified installments. If the defendant is placed on probation or sentenced to imprisonment, the end of a specified period shall not be later than the end of any period of probation, extended supervision or parole. If the defendant is sentenced to the intensive sanctions program, the end of a specified period shall not be later than the end of the sentence under s. 973.032 (3) (a).</p> <p>(b) The department or the clerk of court may certify an amount owed under par. (a) to the department of revenue if any of the following apply:</p> <ol style="list-style-type: none"> 1. The court required that restitution be paid immediately and more than 30 days have passed since the order was entered. 2. The court required that restitution be paid within a specified period and more than 30 days have passed since the expiration of that period. 3. The court required that restitution be paid in specified installments and the defendant is delinquent in making any of those payments. <p>(11)(a) Except as otherwise provided in this paragraph, the restitution order shall require the defendant to deliver the amount of money or property due as restitution to the department for transfer to the victim or other person to be compensated by a restitution order under this section. If the defendant is not placed on probation or sentenced to prison, the court may order that restitution be paid to the clerk of court for transfer to the appropriate person. The court shall impose on the defendant a restitution surcharge under ch. 814 equal to 5 percent of the total amount of any restitution, costs, attorney fees, court fees, fines, and surcharges ordered under s. 973.05(1) and imposed under ch. 814, which shall be paid to the department or the clerk of court for administrative expenses under this section.</p> <p>(b) The department shall establish a separate account for each person in its custody or under its supervision ordered to make restitution for the collection and disbursement of funds. A portion of each payment constitutes the surcharge for administrative expenses under par. (a).</p> <p>(c) If a defendant who is in a state prison or who is sentenced to a state prison is ordered to pay restitution, the court order shall require the defendant to authorize the department to collect, from the defendant's wages and from other moneys held in the defendant's prisoner's account, an amount or a percentage the department determines is reasonable for payment to victims.</p> <p>(d) Each clerk of court who collects restitution under this section shall notify the department when a defendant has satisfied an order for restitution.</p> |

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| | <p>(e) The department and each clerk of court that collects restitution under this section shall annually submit a report to the legislature under s. 13.172(2) that specifies, for each fiscal year, the total amounts of restitution ordered for the department and each clerk of court to collect, the administrative fee the department and each clerk of court collects under par. (a), and the amounts of restitution collected by the department and by the clerk of court and dispersed to victims.</p> <p>(f) If an inmate in a state prison or a person sentenced to a state prison has not paid, at the time of his or her death, restitution ordered under this section, the department shall assess, collect, and disburse the amount owed from the inmate's wages or other moneys.</p> <p>(12)(a) If the court orders restitution in addition to the payment of fines, costs, fees, and surcharges under ss. 973.05 and 973.06 and ch. 814, it shall set the amount of fines, costs, fees, and surcharges in conjunction with the amount of restitution and issue a single order, signed by the judge, covering all of the payments and any amounts due under s. 304.074. If the costs for legal representation by a private attorney appointed under s. 977.08 or the fees due under s. 304.074 are not established at the time of issuance of the order, the court may revise the order to include those costs at a later time.</p> <p>(b) Except as provided in par. (c), payments shall be applied first to satisfy the ordered restitution in full, then to pay any fines or surcharges under s. 973.05, then to pay costs, fees, and surcharges under ch. 814 other than attorney fees and finally to reimburse county or state costs of legal representation.</p> <p>(c) If a defendant is subject to more than one order under this section and the financial obligations under any order total \$50 or less, the department or the clerk of court, whichever is applicable under sub. (11)(a), may pay these obligations first.</p> <p>(13)(a) The court, in determining whether to order restitution and the amount thereof, shall consider all of the following:</p> <ol style="list-style-type: none"> 1. The amount of loss suffered by any victim as a result of a crime considered at sentencing. 2. The financial resources of the defendant. 3. The present and future earning ability of the defendant. 4. The needs and earning ability of the defendant's dependents. 5. Any other factors which the court deems appropriate. <p>(b) The district attorney shall attempt to obtain from the victim prior to sentencing information pertaining to the factor specified in par. (a)1. Law enforcement agencies, the department of corrections and any agency providing services under ch. 950 shall extend full cooperation and assistance to the district attorney in discharging this responsibility. The department of justice shall provide technical assistance to district attorneys in this regard and develop model forms and procedures for collecting and documenting this information.</p> |

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| | <p>(c) The court, before imposing sentence or ordering probation, shall inquire of the district attorney regarding the amount of restitution, if any, that the victim claims. The court shall give the defendant the opportunity to stipulate to the restitution claimed by the victim and to present evidence and arguments on the factors specified in par. (a). If the defendant stipulates to the restitution claimed by the victim or if any restitution dispute can be fairly heard at the sentencing proceeding, the court shall determine the amount of restitution before imposing sentence or ordering probation. In other cases, the court may do any of the following:</p> <ol style="list-style-type: none"> 1. Order restitution of amounts not in dispute as part of the sentence or probation order imposed and direct the appropriate agency to file a proposed restitution order with the court within 90 days thereafter, and mail or deliver copies of the proposed order to the victim, district attorney, defendant and defense counsel. 2. Adjourn the sentencing proceeding for up to 60 days pending resolution of the amount of restitution by the court, referee or arbitrator. 3. With the consent of the defendant, refer the disputed restitution issues to an arbitrator acceptable to all parties, whose determination of the amount of restitution shall be filed with the court within 60 days after the date of referral and incorporated into the court's sentence or probation order. 4. Refer the disputed restitution issues to a circuit court commissioner or other appropriate referee, who shall conduct a hearing on the matter and submit the record thereof, together with proposed findings of fact and conclusions of law, to the court within 60 days of the date of referral. Within 30 days after the referee's report is filed, the court shall determine the amount of restitution on the basis of the record submitted by the referee and incorporate it into the sentence or probation order imposed. The judge may direct that hearings under this subdivision be recorded either by audio recorder or by a court reporter. A transcript is not required unless ordered by the judge. <p>(14) At any hearing under sub. (13), all of the following apply:</p> <ol style="list-style-type: none"> (a) The burden of demonstrating by the preponderance of the evidence the amount of loss sustained by a victim as a result of a crime considered at sentencing is on the victim. The district attorney is not required to represent any victim unless the hearing is held at or prior to the sentencing proceeding or the court so orders. (b) The burden of demonstrating, by the preponderance of the evidence, the financial resources of the defendant, the present and future earning ability of the defendant and the needs and earning ability of the defendant's dependents is on the defendant. The defendant may assert any defense that he or she could raise in a civil action for the loss sought to be compensated. The office of the state public defender is not required to represent any indigent defendant unless the hearing is held at or prior to the sentencing proceeding, the defendant is incarcerated when the hearing is held or the court so orders. |

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| | <p>(c) The burden of demonstrating, by the preponderance of the evidence, such other matters as the court deems appropriate is on the party designated by the court, as justice requires.</p> <p>(d) All parties interested in the matter shall have an opportunity to be heard, personally or through counsel, to present evidence and to cross-examine witnesses called by other parties. The court, arbitrator or referee shall conduct the proceeding so as to do substantial justice between the parties according to the rules of substantive law and may waive the rules of practice, procedure, pleading or evidence, except provisions relating to privileged communications and personal transactions or communication with a decedent or mentally ill person or to admissibility under s. 901.05. Discovery is not available except for good cause shown. If the defendant is incarcerated, he or she may participate by telephone under s. 807.13 unless the court issues a writ or subpoena compelling the defendant to appear in person.</p> <p>(15) If misappropriation, from a cemetery, of an object that indicates that a deceased was a veteran, as described in s. 45.001, is a crime considered at sentencing, the restitution order shall require that the defendant reimburse an individual, organization, or governmental entity for the cost of replacing the object.</p> |
| Wyoming | <p><i>Wyo. Stat. Ann. § 6-2-709 (Victims' rights; services).</i></p> <p>(a) As soon as possible after the initial encounter with a person who reasonably appears to a law enforcement agency, district or county and prosecuting attorneys' office to be a victim of human trafficking, the agency or office shall:</p> <p>(i) Notify the victim services division within the office of the attorney general that the person may be eligible for services under this article; and</p> <p>(ii) Make a preliminary assessment of whether the victim or possible victim of human trafficking appears to meet the criteria for certification as a victim of a severe form of trafficking in persons as defined in the Trafficking Victims Protection Act, 22 U.S.C. section 7105, or appears to be otherwise eligible for any federal, state or local benefits and services. If it is determined that the victim appears to meet such criteria, the agency or office shall report the finding to the victim and shall refer the victim to services available, including legal service providers. If the possible victim is a minor or is a vulnerable adult, the agency or office shall also notify the department of family services.</p> <p>(b) The attorney general, a district or county and prosecuting attorney or any law enforcement official shall certify in writing to the United States Department of Justice or other federal agency, such as the United States Department of Homeland Security, that an investigation or prosecution under this article has begun and the individual who is a likely victim of a crime described in this article is willing to cooperate or is cooperating</p> |

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| | <p>with the investigation to enable the individual, if eligible under federal law, to qualify for an appropriate special immigrant visa and to access available federal benefits. Cooperation with law enforcement shall not be required of victims of a crime described in this article who are minors.</p> <p>This certification shall be made available to the victim and the victim’s designated legal representative.</p> <p>(c) Victims of human trafficking under W.S. 6-2-702 through 6-2-706 shall be informed of the rights enumerated in this section, the victim’s right to informed consent and the victim’s rights as a victim of crime. The victim shall also be informed of available housing, educational, medical, legal and advocacy services.</p> <p>(d) Victims of human trafficking are entitled to restitution and forms of compensation under the Crime Victims Compensation Act.</p> <p>(e) In a prosecution for an offense under this article, police and prosecuting agencies shall keep the identity of the victim and the victim’s family confidential. The prosecutor shall take reasonable steps to protect the victim and the victim’s family from being revictimized.</p> <p><i>Wyo. Stat. Ann. § 6-2-710 (Restitution).</i></p> <p>(a) In addition to any other punishment prescribed by law, upon conviction for felony under this article, the court shall order a defendant to pay mandatory restitution to each victim as determined under W.S. 7-9-103 and 7-9-114.</p> <p>(b) If the victim of human trafficking to whom restitution has been ordered dies before restitution is paid, any restitution ordered shall be paid to the victim’s heir or legal representative provided that the heir or legal representative has not benefited in any way from the trafficking.</p> <p>(c) The return of the victim of human trafficking to the victim’s home country or other absence of the victim from the jurisdiction shall not limit the victim’s right to receive restitution pursuant to this section.</p> <p><i>Wyo. Stat. Ann. § 7-9-101 (Definitions).</i></p> <p>(a) As used in this chapter:</p> <p>(i) “Criminal activity” means any crime for which there is a plea of guilty, nolo contendere or verdict of guilty upon which a judgment of conviction may be rendered and includes any other crime which is admitted by the defendant, whether or not prosecuted. In the case of restitution ordered under W.S. 7-13-301, “criminal activity” also includes a crime charged against the defendant;</p> <p>(ii) “Long-term physical health care restitution order” means an order entered pursuant to W.S. 7-9-113 through 7-9-115;</p> |

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| | <p>(iii) “Pecuniary damage” means all damages which a victim could recover against the defendant in a civil action arising out of the same facts or event, including damages for wrongful death. It does not include punitive damages and damages for pain, suffering, mental anguish and loss of consortium;</p> <p>(iv) “Restitution” means full or partial payment of pecuniary damage to a victim;</p> <p>(v) “Victim” means a person who has suffered pecuniary damage as a result of a defendant’s criminal activities. An insurer which paid any part of a victim’s pecuniary damages shall be regarded as the victim only if the insurer has no right of subrogation and the insured has no duty to pay the proceeds of restitution to the insurer.</p> <p><i>Wyo. Stat. Ann. § 7-9-102 (Order to pay upon conviction).</i></p> <p>In addition to any other punishment prescribed by law the court shall, upon conviction for any misdemeanor or felony, order a defendant to pay restitution to each victim as determined under W.S. 7-9-103 and 7-9-114 unless the court specifically finds that the defendant has no ability to pay and that no reasonable probability exists that the defendant will have an ability to pay.</p> <p><i>Wyo. Stat. Ann. § 7-9-103 (Determination of amount owed; execution).</i></p> <p>(a) As part of the sentencing process including deferred prosecutions under W.S. 7-13-301, in any misdemeanor or felony case, the prosecuting attorney shall present to the court any claim for restitution submitted by any victim.</p> <p>(b) In every case in which a claim for restitution is submitted, the court shall fix a reasonable amount as restitution owed to each victim for actual pecuniary damage resulting from the defendant’s criminal activity, and shall include its determination of the pecuniary damage as a special finding in the judgment of conviction or in the order placing the defendant on probation under W.S. 7-13-301. In determining the amount of restitution, the court shall consider and include as a special finding, each victim’s reasonably foreseeable actual pecuniary damage that will result in the future as a result of the defendant’s criminal activity. A long-term physical health care restitution order shall be entered as provided in W.S. 7-9-113 through 7-9-115.</p> <p>(c) The court shall order the defendant to pay all or part of the restitution claimed or shall state on the record specific reasons why an order for restitution was not entered. If the court determines that the defendant has no ability to pay and that no reasonable probability exists that the defendant will have an ability to pay in the future, the court shall enter specific findings in the record supporting its determination.</p> <p>(d) Any order for restitution under this chapter constitutes a judgment by operation of law on the date it is entered. To satisfy the judgment, the clerk, upon request of the victim, the division of victim services or the district attorney, shall issue execution in the same manner as in a civil action.</p> |

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| | <p>(e) The court’s determination of the amount of restitution owed under this section is not admissible as evidence in any civil action.</p> <p>(f) The defendant shall be given credit against his restitution obligation for payments made to the victim by the defendant’s insurer for injuries arising out of the same facts or event.</p> <p><i>Wyo. Stat. Ann. § 7-9-105 (Submission of plan to court; approval or modification).</i> The defendant’s plan of restitution and the comments of the probation and parole officer or any other person directed by the court to assist in the preparation of the restitution plan shall be submitted promptly to the court. The court shall promptly enter an order approving the plan or modifying it and providing for restitution payments to the extent that the defendant is or may become reasonably able to make restitution, taking into account the factors enumerated in W.S. 7-9-106. The court may modify the plan at any time upon the defendant’s request, upon the court’s own motion and, for those cases within the provisions of W.S. 7-9-113 through 7-9-115, upon the motion of the victim.</p> <p><i>Wyo. Stat. Ann. § 7-9-106 (Factors considered by probation and parole officer, and by court).</i> (a) The probation and parole officer or other person directed by the court when assisting the defendant in preparing the plan of restitution, and the court before approving or modifying the plan of restitution, shall consider:</p> <ul style="list-style-type: none"> (i) The number of victims; (ii) The pecuniary damages of each victim including, for those cases within the provisions of W.S. 7-9-113 through 7-9-115, the long-term physical health care cost of the victim; (iii) The defendant’s: <ul style="list-style-type: none"> (A) Physical and mental health and condition; (B) Age; (C) Education; (D) Employment circumstances; (E) Potential for employment and vocational training; (F) Family circumstances; and (G) Financial condition and whether the defendant has an ability to pay or whether a reasonable probability exists that the defendant will have an ability to pay. (iv) Whether compensation has been paid to any victim under the Crime Victims Compensation Act [§§ 1-40-101 through 1-40-119]; |

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| | <p>(v) What plan of restitution will most effectively aid the rehabilitation of the defendant; and (vi) Other appropriate factors.</p> <p><i>Wyo. Stat. Ann. § 7-9-107 (Notice to victims).</i> (a) The probation and parole officer or other person directed by the court to assist in preparation of the restitution plan shall attempt to determine the name and address of each victim and the amount of his pecuniary damages and may rely on a victim’s impact statement made pursuant to W.S. 7-21-101 through 7-21-103. (b) The clerk of the court shall mail to each known victim a copy of the court’s order approving or modifying the plan of restitution.</p> <p><i>Wyo. Stat. Ann. § 7-9-111 (Limitations on duty of prosecutor; victim’s remedy).</i> Except as provided by W.S. 7-9-103(a), the prosecuting attorney has no obligation to investigate alleged pecuniary damages or to petition the court for restitution on behalf of a victim. In the event that the victim is not satisfied with the restitution plan approved or modified by the court, the victim’s sole and exclusive remedy is a civil action.</p> <p><i>Wyo. Stat. Ann. § 7-9-112 (Check fraud).</i> Notwithstanding any other provision of this chapter, the sentencing court may require any person convicted of check fraud to make restitution in an amount not to exceed twice the amount of the dishonored check in addition to any other punishment imposed under W.S. 6-3-702.</p> <p><i>Wyo. Stat. Ann. § 7-9-113 (Restitution for long-term care).</i> (a) In addition to any other punishment prescribed by law and any restitution ordered pursuant to W.S. 7-9-102 which did not include long-term physical health care costs, the court may, upon conviction of any misdemeanor or felony, order a defendant to pay restitution to a victim in accordance with the provisions of W.S. 7-9-114 if the victim has suffered physical injury as a result of the crime which is reasonably probable to require or has required long-term physical health care for more than three (3) months. (b) As used in W.S. 7-9-113 through 7-9-115 “long-term physical health care” includes mental health care.</p> <p><i>Wyo. Stat. Ann. § 7-9-114 (Determination of long-term restitution; time for order; enforcement).</i> (a) In determining the amount of restitution to be ordered for long-term physical health care, the court shall consider the factors stated in W.S. 7-9-106 together with an estimated monthly cost of long-term physical</p> |

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| | <p>health care of the victim provided by the victim or his representative. The victim's estimate of long-term physical health care costs may be made as part of a victim impact statement under W.S. 7-21-103 or made separately. The court shall enter the long-term physical health care restitution order at the time of sentencing. An order of restitution made pursuant to this section shall fix a monthly amount to be paid by the defendant for as long as long-term physical health care of the victim is required as a result of the crime. The order may exceed the length of any sentence imposed upon the defendant for the criminal activity. The court shall include as a special finding in the judgment of conviction its determination of the monthly cost of long-term physical health care.</p> <p>(b) Restitution ordered under this section shall be paid as provided in W.S. 7-9-108. The restitution order shall be a civil judgment against the defendant and may be enforced by any means provided for enforcing other restitution orders and civil judgments.</p> <p><i>Wyo. Stat. Ann. § 7-9-115 (Modification of order).</i></p> <p>After a long-term physical health care restitution order has been entered, the court may from time to time, on the petition of either the defendant or the victim, or upon its own motion, modify the order as to the amount of monthly payments. Any modification of the order shall only be based upon a substantial change of circumstances relating to the cost of long-term physical health care or the financial condition of either the defendant or the victim. The petition shall be filed as part of the original criminal docket.</p> |

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