



SURVEY OF SELECT LAWS GOVERNING TIMELINES FOR ENTRY OF INITIAL RESTITUTION ORDER IN A CRIMINAL CASE¹

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Determining the strongest argument for restitution can be complex. For instance, the differences between certain categories of restitution are not always clear in law (e.g., full vs. partial; mandatory vs. discretionary; mandatory consideration vs. mandatory order; the right to restitution vs. the right to receive restitution). In this Survey NCVLI has noted with an asterisk jurisdictions with particularly challenging law regarding mandatory and discretionary restitution. For technical assistance with these or any other restitution questions, please contact NCVLI.



We would like your feedback! Click or scan code to complete our questionnaire.

¹ This survey focuses on restitution timelines in criminal cases; timelines and procedures specific to juvenile cases are outside the scope of this product. An analysis of laws determining how and when victims may seek to modify existing restitution orders is also outside the scope of this product. To request additional technical assistance with issues regarding modification of restitution orders as well as timelines and procedures specific to juvenile cases, please contact NCVLI.

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
Federal	<p>Victims’ right to restitution under federal law is protected by statute. 18 U.S.C. § 3771(a)(6) (providing victims with the “right to full and timely restitution as provided in law”); <i>see also</i> 18 U.S.C. § 3664(f)(1)(A) (“In each order of restitution, the court shall order restitution to each victim in the full amount of each victim’s losses as determined by the court and without consideration of the economic circumstances of the defendant.”). Restitution is further provided for in numerous other statutes. Except to the limited extent provided for in other statutes applicable to select crimes, 18 U.S.C. § 3664 provides the procedure governing the issuance of restitution orders.</p>	<p>Restitution is generally ordered at sentencing. “Upon the request of the probation officer, but not later than 60 days prior to the date initially set for sentencing, the attorney for the Government, after consulting, to the extent practicable, with all identified victims, shall promptly provide the probation officer with a listing of the amounts subject to restitution.” 18 U.S.C. § 3664(d)(1). Defendants must also prepare and file an affidavit describing their financial resources at the time of arrest, along with other information. 18 U.S.C. § 3664(d)(3). “If the victim’s losses are not ascertainable by the date that is 10 days prior to sentencing, the attorney for the Government or the probation officer shall so inform the court, and the court shall set a date for the final determination of the victims losses, not to exceed 90 days after sentencing.” 18 U.S.C. § 3664(d)(5). The United States Supreme Court has held that the 90-day deadline can be held open longer when the court made clear prior to the deadline’s expiration that it would order restitution, just leaving open the monetary amount. <i>Dolan v. United States</i>, 560 U.S. 605, 608 (2010); <i>see also United States v. Zachary</i>, 357 F.3d 186, 191-94 (2d Cir. 2004) (clarifying that the statutory limit on the determination of losses “is not to protect defendants from drawn-out sentencing proceedings or to establish finality” but instead to “protect crime victims from the willful dissipation of defendants’ assets”; finding that the prosecutor’s error in failing</p>

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		to identify all victims within the 90-day period was harmless error to defendant; and remanding for determination of the victims' losses and resentencing).
Alabama	<p>In Alabama, restitution is mandated by statute. Ala. Code § 15-18-67 (“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 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.”). <i>See Roberts v. State</i>, 863 So. 2d 1149, 1153 (Ala. Crim. App. 2002) (noting that the legislative purpose of the restitution statutes is to “fully compensate victims of crime for ‘any pecuniary loss, damage or injury’ suffered as a direct or indirect result of a criminal act”); <i>State v. Redmon</i>, 885 So. 2d 850, 852 (Ala. Crim. App. 2004) (“The statute provides that a restitution hearing ‘shall’ be held as a ‘matter of course.’ The word ‘shall,’ when used in a statute, is mandatory.”).</p>	<p>When a defendant is convicted of a crime resulting in monetary damages to the victim, the court is to hold a restitution hearing “as a matter of course,” at which time the court will “determine the amount or type of restitution due the victim or victims of such defendant’s criminal acts.” Ala. Code § 15-18-67(a). The resulting restitution order is a “final judgment” and has “all the force and effect of a final judgment in a civil action under the laws of the State of Alabama.” Ala. Code § 15-18-78(a). Although restitution hearings are statutorily mandated, they do not need to be held at the time of sentencing, and a trial court will retain jurisdiction to hold restitution hearings more than 30 days post sentencing. <i>See Hill v. Bradford</i>, 565 So. 2d 208, 210 (Ala. 1990) (“[T]he restitution statute makes it clear that restitution hearings are to be held as a matter of course and that restitution may be ordered in addition to any other sentence imposed and does not require that a restitution hearing be held within 30 days of the imposition of a sentence of imprisonment or other criminal sanctions.”); <i>Grace v. State</i>, 899 So. 2d 302, 305 (Ala. Crim. App. 2004) (concluding “that the trial court did not lose jurisdiction to impose</p>

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		<p>restitution and that the trial court’s restitution order entered 11 months after sentencing was not untimely”); <i>State v. Redmon</i>, 885 So. 2d 850, 854 (AL Ct. Crim. App. 2004) (holding that the trial court retained jurisdiction to hold a restitution hearing more than 30 days after defendant’s sentencing date, as defendant agreed to pay restitution to the three victims in exchange for being permitted to plead to reduced charges; the trial court’s original restitution order was not final since it failed to include restitution for the third victim, an award of restitution was mandatory, and therefore the trial court had jurisdiction to amend restitution order to address matter of restitution for the third victim).</p>
Alaska	<p>In Alaska, restitution is mandated by state constitution and statute. Alaska Const. art. I, § 24 (recognizing the right of crime victims “to restitution from the accused”); Alaska Stat. Ann. § 12.55.045(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.”).</p>	<p>The court is required to enter the restitution order at the time of sentencing. Alaska R. Crim. P. 32.6(c)(1). If the names of the victims or the amount of restitution is not known at sentencing, “the prosecutor shall file and serve within 90 days after sentencing a proposed judgment for restitution on a form designated by the Administrative Director[.]” Alaska R. Crim. P. 32.6(c)(2).</p> <p>Alaska courts have granted restitution requests after the 90-day window, however. <i>See O’Dell v. State</i>, 366 P.3d 555, 559 (Alaska Ct. App. 2016) (finding that the trial court did not commit plain error in ordering defendant to pay restitution even though the prosecutor submitted the request seven months late, as Criminal Rule 53—permitting the procedural rules</p>

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		<p>“to be relaxed or dispensed with by the court in any case where it shall be manifest to the court that a strict adherence to them will work injustice”—permitted the court to relax the 90–day filing deadline set by Criminal Rule 32.6(c)(2)).</p>
<p>Arizona</p>	<p>In Arizona, restitution is mandated by state constitution and statute. Ariz. Const. art. II, § 2.1(A)(8) (recognizing the right of crime victims to “receive prompt restitution from the person or persons convicted of the criminal conduct that caused the victim’s loss or injury”); Ariz. Rev. Stat. Ann. § 13-603(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.”).</p>	<p>Arizona’s restitution statutes, in particular Section 13-603(C), “[are] silent as to when restitution must be assessed” though it is typical for restitution to be “ordered at the time of sentencing - if the court has sufficient evidence at that time to support a restitution award.” <i>State v. Grijalva</i>, 392 P.3d 516, 518 (Ariz. Ct. App. 2017) (quoting <i>State v. Holguin</i>, 870 P.2d 407, 409 (Ariz. Ct. App. 1993)). Ariz. R. Crim. P. 26.16 declares a judgment of conviction and sentence to be “complete and valid as of the time of their oral pronouncement in open court[,]” however, Rule 26.16 limits the definition of “sentence” to “the penalty imposed upon the defendant after a judgment of guilty[,]” and “[a]lthough it has been recognized as ‘part of the sentencing process’ in some contexts, ‘restitution is not a penalty or a disability.’” <i>Id.</i> (quoting <i>State v. Zaputil</i>, 207 P.3d 678, 681 (Ariz. Ct. App. 2008)). Accordingly, though a court may choose to resolve restitution at the time of sentencing, it is not required that it be determined at the same time as the rest of sentencing. <i>Id.</i> “Finally, although a victim may waive restitution by failing to comply with a time limit set by the court, this rule is a matter of procedure. A procedural rule is based on the orderly administration of justice rather than the</p>

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		<p>court’s jurisdiction.” <i>Id.</i> See also <i>Grijalva</i>, 392 P.3d at 519 (trial court had jurisdiction and did not err in ordering restitution in case in which the court did not set a clear deadline and the state requested restitution 18 months after sentencing); <i>Zaputil</i>, 207 P.3d at 682–83 (“The trial court has continuing jurisdiction to adjudicate the timely restitution claim asserted by the victim notwithstanding that [defendant’s] probation has concluded and the judgment of guilt had been set aside pursuant to A.R.S. § 13–907.”).</p>
Arkansas	<p>In Arkansas, the restitution statutes contain both mandatory and discretionary language. See Ark. Code Ann. § 5-4-205(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.”); Ark. Code Ann. § 16-90-309(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.”); Ark. Code Ann. § 16-90-311(a) (“When any defendant is found guilty of or pleads guilty or nolo contendere to theft or any other offense affecting property held by or belonging to the State of Arkansas or any political subdivision of the state, and Arkansas Legislative Audit has incurred costs in the investigation of the transactions, the court shall</p>	<p>Arkansas statutes instruct that restitution is to be ordered as part of the sentencing process. See Ark. Code Ann. §5-4-205(b)(1) (“Whether a trial court or a jury, the sentencing authority shall make a determination of actual economic loss caused to a victim . . .”).</p>

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	<p>require as part of the sentence the payment of restitution for the audit investigation costs to be payable to Arkansas Legislative Audit.”). <i>See also</i> Ark. Code Ann. § 16-90-301 (the legislature “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 state to establish a method whereby the responsible offender, as far as practicable, may be required to make restitution to his or her victim”); <i>Irvin v. State</i>, 771 S.W.2d 26, 33 (Ark. Ct. App. 1989) (“Arkansas Statutes Annotated Sections 16–90–301 to –305 (1987) establish that the state’s purpose in the passage of the restitution statute is to provide a means of making restitution to the victim. Under these statutes, the court has an affirmative duty, as far as is practicable, to require the responsible offender to make restitution to his victim so as to make that victim whole with respect to the financial injury suffered.”). Further, “[i]f 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.” Ark. Code Ann. § 5-4-205(a)(2).</p> <p>*For assistance with how to best argue for restitution in jurisdictions with mandatory and discretionary language, please contact NCVLI.</p>	

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California	<p>In California, restitution is mandated by state constitution and statute. <i>See</i> Cal. Const. art. I, § 28(b)(13) (“In order to preserve and protect a victim’s rights to justice and due process, a victim” is entitled to the right “[t]o restitution.”); Cal. Penal Code, § 1202.4(a)(1) (providing that victims of crime “shall receive restitution directly from a defendant convicted of that crime”); Cal. Penal Code § 1202.4(f)(3) (mandating that the restitution order “shall be of a dollar amount that is sufficient to fully reimburse the victim or victims for every determined economic loss”).</p>	<p>The court is required to order restitution at the time of sentencing. <i>See</i> Cal. Penal Code § 1202.4(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.”). A sentencing order without restitution is invalid. <i>People v. Rowland</i>, 51 Cal. App. 4th 1745, 1751–52, (Cal. Ct. App. 1997) (citations omitted) (explaining that “victim restitution is mandated by both the Constitution and section 1202.4. The only discretion retained by the trial court in this regard is in fixing the amount of the award Where the court fails to issue an award altogether, as here, the sentence is invalid”); <i>see also People v. Khensanphanh</i>, No. F071002, 2017 WL 604986, at *3 (Cal. Ct. App. Feb. 15, 2017) (“Generally speaking, a sentence imposed without an award of victim restitution is invalid.”).</p>
Colorado	<p>In Colorado, restitution is mandated by state statute. <i>See</i> Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(h) (recognizing a crime victim’s right to restitution for actual pecuniary damages that</p>	<p>Colorado law requires a sentencing court to include restitution when imposing a sentence. <i>See</i> Colo. Rev. Stat. Ann. §§ 18-1.3-601(1); 24-4.1-302.5(1)(h); <i>see also</i> Colo. Rev. Stat. Ann. § 16-11-102(4) (“The</p>

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	<p>resulted from the commission of the crime); Colo. Rev. Stat. Ann. § 18-1.3-601(1) (“The general assembly finds and declares that: (a) Crime victims endure undue suffering and hardship resulting from physical injury, emotional and psychological injury, or loss of property [and] (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[.]”); Colo. Rev. Stat. Ann. § 18-1.3-603(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: (a) An order of a specific amount of restitution be paid by the defendant; (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; (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 (d)</p>	<p>court, with the concurrence of the defendant and the prosecuting attorney, may dispense with the presentence examination and report; except that the information required by section 18-1.3-603(2), C.R.S., and a victim impact statement shall be made in every case. The amount of restitution shall be ordered pursuant to section 18-1.3-603, C.R.S., and article 18.5 of this title and endorsed upon the mittimus.”); <i>People v. Tipton</i>, 973 P.2d 713, 715 (Colo. App. 1998) (“At the time of sentencing, the sentencing court must determine the proper amount of restitution and costs and must ‘impose’ an order of restitution and must enter a ‘judgment’ for costs. The amounts of the restitution order and of the cost judgment may be collected in the same manner as are civil judgments.”).</p> <p>Unless the court makes a specific finding that no victim of the offense suffered a pecuniary loss, a sentencing court is required to order a defendant to make restitution in all cases involving a conviction of 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 where a victim sustains a pecuniary loss due to a defendant’s criminal conduct. <i>See</i> Colo. Rev. Stat. Ann. § 18-1.3-601(1).</p> <p>The court may order that defendant is obligated to pay restitution and that the specific amount shall be determined within 91 days of the entry of the order of</p>

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	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.”).	conviction, “unless good cause is shown for extending the time period by which the restitution amount shall be determined[.]” Colo. Rev. Stat. Ann. § 18-1.3-603(1)(b). If restitution is ordered as part of the sentence, the court is also required to include payment of that restitution as a condition of the offender’s probation. <i>See</i> Colo. Rev. Stat. Ann. § 18-1.3-205. The parole board is similarly required to “order that the offender make restitution to the victim or victims of his or her conduct if such restitution has been ordered by the court[.]” Colo. Rev. Stat. Ann. § 17-2-201(5)(c)(1).
Connecticut	In Connecticut, the right to restitution is mandated by constitutional amendment and statute. <i>See</i> Conn. Const. art. I, § 8(b)(9) (“In all criminal prosecutions, a victim . . . shall have . . . the right to restitution which shall be enforceable in the same manner as any other action or as otherwise provided by law”); Conn. Gen. Stat. Ann. § 53a-28(c) (mandating that, in addition to any sentence, “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 restitution	Connecticut statutory law suggests that restitution shall be ordered in the course of sentencing. Conn. Gen. Stat. Ann. § 53a-28(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[.]”); Conn. Gen. Stat. Ann. § 53a-30(a)(4) (“When imposing sentence of probation or conditional discharge, the court may, as a condition of the sentence, order that the defendant . . . make restitution[.]”). Case law in Connecticut provides that “the jurisdiction of a sentencing court terminates once a defendant’s sentence has begun, and, therefore, that court may no longer take any action affecting a defendant’s sentence unless it expressly has been authorized to act.” <i>State v. Fowlkes</i> , 930

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	<p>under terms that it determines are appropriate.”); Conn. Gen. Stat. Ann. § 53a-30(a)(4) (“When imposing sentence of probation or conditional discharge, the court may, as a condition of the sentence, order that the defendant . . . 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.”).</p> <p>Although the restitution statute provides that 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 and be determined, the court may forego setting such terms[,]” Conn. Gen. Stat. Ann. § 53a-28(c), in light of victims’ state constitutional right to restitution, the propriety of a court’s consideration of the offender’s resources in fashioning a restitution award is questionable.</p> <p>*For assistance with how to best argue for restitution in jurisdictions with mandatory and discretionary language, please contact NCVLI.</p>	<p>A.2d 644, 648 (Conn. 2007) (quoting <i>State v. Alexander</i>, 847 A.2d 970, 974 (Conn. 2004)). The same court clarified that where an order of restitution is not “punitive in nature,” it does not “affect” a defendant’s sentence and “the trial court has jurisdiction to take action.” <i>Fowlkes</i>, 930 A.2d at 648-51 (citations omitted) (upholding a trial court’s order of restitution as an additional condition of probation, nearly two weeks after the judgment of conviction, because it “was not punitive in nature,” and observing both that restitution “has not been regarded as punishment” historically and that the statute was designed to “assure that . . . probation serves as a period of genuine rehabilitation”).</p>
Delaware	In Delaware, restitution statutes contain both mandatory and discretionary language. <i>See</i> Del. Code Ann. tit. 11, § 4204(c)(8), (9) (providing that “[w]hen a person is convicted of any offense other than a class A felony the court may take the	In Delaware, rules of criminal procedure provide generally that a “[s]entence shall be imposed without unnecessary delay, but the court may, when there is a factor important to the sentencing determination that is not then capable of being resolved, postpone the

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	<p>following action: . . . (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 “(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”); Del. Code Ann. tit. 11, § 4106(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.”); Del. Code Ann. tit. 11, § 854(e) (“When a person is convicted of or pleads guilty to identity theft, the sentencing judge shall order full restitution for monetary loss, including documented loss of wages and reasonable attorney fees, suffered by the victim.”); Del. Code Ann. tit. 11, § 787(d) (mandating restitution for trafficking</p>	<p>imposition of sentence for a reasonable time until the factor is capable of being resolved.” Del. Super. Ct. Crim. R. 32(a)(1). In cases in which a sentence is imposed without a presentence report but pursuant to a plea agreement, the court shall order restitution “as provided in the plea agreement.” Del. Super. Ct. Crim. R. 32(g)(1)(A). Where a plea agreement is reached, but does not contain a restitution agreement, restitution is “determined upon the filing of a Restitution Claim Form . . . no later than 60 days after sentencing.” Del. Super. Ct. Crim. R. 32(g)(1)(B). A defendant then has 60 days from the date the form is mailed to file a response with the Office of Investigative Services, which will “send the Restitution Claim Form to the sentencing judge” within 30 days. <i>Id.</i> Where a “presentence investigation” is ordered and a Restitution Claim Form is provided to the victim, it must be “returned to the Office of Investigative Services within 30 days from the date of mailing.” Del. Super. Ct. Crim. R. 32(g)(2) (2016). In both instances, “[e]xcept for good cause shown, failure to timely return a Restitution Claim Form shall be deemed a waiver of restitution.” Del Super. Ct. Crim. R. 32(g)(1)(B); Del Super. Ct. Crim. R. 32(g)(2).</p>

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	<p>victims for all losses, “including the greater of: a. The gross income or value to the defendant of the victim’s labor or services; or b. 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 of Title 19, whichever is greater”). <i>See also State v. Bangs</i>, 2018 WL 1010269, at *1 (Del. Super. Ct. Feb. 21, 2018) (“11 Del. C. § 4204 gives the Court the authority to order restitution.”); <i>State v. Elsey</i>, 2012 WL 1413487, at *1 (Del. Super. Ct. Jan. 20, 2012) (“The court has broad discretion to determine restitution.”).</p> <p>*For assistance with how to best argue for restitution in jurisdictions with mandatory and discretionary language, please contact NCVLI.</p>	
District of Columbia	<p>In the District of Columbia, restitution is mandated by the federal Crime Victims’ Rights Act; the District’s statutes contain provisions with mandatory and discretionary language. <i>See</i> 18 U.S.C. § 3771(a)(6) (CVRA) (granting crime victims “[t]he right to full and timely restitution as provided in law”); D.C. Code § 23-1901(b)(6) (providing that crime victims have “the right to . . . [a]n order of restitution from the person convicted of the criminal conduct that caused the victim’s loss or injury.”); D.C. Code Ann. § 16-711(a) (“In criminal cases in the Superior Court, the court may, in addition to any other sentence imposed as a</p>	<p>District of Columbia law provides that, “[e]xcept as otherwise provided in this rule, upon a finding of guilty by plea or verdict, the court may sentence the defendant immediately or continue the sentencing to a further date.” D.C. Super. Ct. R. Crim. P. 32(a). D.C. Code Section 16-711 expressly authorizes a sentencing court to require a defendant to make restitution to their victim as a condition of probation; however, no time lines are provided.</p>

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	<p>condition of probation or as a sentence itself, require a person convicted of any offense to make reasonable restitution or reparation.”).</p> <p>*For assistance with how to best argue for restitution in jurisdictions with mandatory and discretionary language, please contact NCVLI.</p>	
Florida	<p>In Florida, restitution is mandated by state constitution; statutes contain provisions with mandatory and discretionary language. <i>See Fla. Const. art. I, § 16</i> (recognizing 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”); <i>Fla. Stat. Ann. § 775.089(1)(a)</i> (“In addition to any punishment, the court shall order the defendant to make restitution to the victim for: 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, unless it finds clear and compelling reasons not to order such restitution.”); <i>Fla. Stat. Ann. § 985.437(1)</i> (“The court that has jurisdiction over an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing, order the child to make restitution in the manner provided in this section.”). In instances</p>	<p>Florida courts are mandated to order restitution as a part of sentencing and any “failure to impose restitution as part of a sentence results in an incomplete sentence that is subject to timely modification.” <i>Ridley v. State</i>, 890 So. 2d 1261, 1262 (Fla. Dist. Ct. App. 2005). <i>See also Bunch v. State</i>, 745 So. 2d 400, 401-2 (Fla. Dist. Ct. App. 1999) (holding that “restitution is a mandated part of, not an enhancement to, sentencing,” and that its purpose “is to make victims of crime whole by restoring to them the value of that which they have lost as a result of the crime, rather than to punish the wrongdoer”). It is a “general rule” that courts may impose restitution “at the time of sentencing or within sixty days thereafter.” <i>Ridley</i>, 890 So. 2d at 1262. In those instances where a court orders timely restitution, they may reserve “jurisdiction to determine the amount of restitution beyond the sixty-day period.” <i>Id.</i></p>

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	<p>where the court “does not order restitution, or orders restitution of only a portion of the damages . . . it shall state on the record in detail the reasons therefor.” Fla. Stat. Ann. § 775.089(1)(b).</p> <p>*For assistance with how to best argue for restitution in jurisdictions with mandatory and discretionary language, please contact NCVLI.</p>	
Georgia	<p>In Georgia, restitution is mandated by state statute. <i>See</i> Ga. Code Ann. § 17-14-3(a) – (b) (“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 . . . 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.”); Ga. Code Ann. § 17-17-1(7) (“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[,] . . . including . . . [t]he right to restitution as provided by law[.]”); Ga. Code Ann. § 17-14-1 (“It is declared to be the policy of this</p>	<p>At the time of sentencing, Georgia courts are required to either order restitution or to set a date for a hearing to determine restitution sometime in the future; there is no clear deadline by which date the hearing must be held. <i>See</i> Ga. Code Ann. § 17-14-7(b) (“If the parties have not agreed on the amount of restitution prior to sentencing, the ordering authority shall set a date for a hearing to determine restitution.”); <i>Williams v. State</i>, 715 S.E.2d 440, 441 (Ga. Ct. App. 2011) (“Pursuant to OCGA § 17–14–3(a), the trial court is authorized ‘in sentencing an offender, [to] make a finding as to the amount of restitution due any victim.’ In the event that an appropriate restitution amount has not been established at the time of sentencing, the trial court ‘shall set a date for a hearing to determine restitution.’ There is no statutory mandate as to when the restitution hearing must occur.”).</p>

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	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.”).	
Hawaii	In Hawaii, restitution is mandated by state statute “when requested by the victim.” Haw. Rev. Stat. Ann. § 706-646(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”); <i>State v. Kealoha</i> , 414 P.3d 98, 109 (Haw. 2018) (emphasis in original) (holding that, “pursuant to HRS § 706-646(2), if a ‘victim’ as defined in subsection (1) requests restitution, or if the crime victim compensation fund has provided the victim with an award, restitution for reasonable and verified losses <i>must</i> be ordered”). <i>See also</i> Haw. Rev. Stat. Ann. § 706-605(7) (“The court shall order the defendant to make restitution for losses as provided in section 706-646. 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.”).	In Hawaii, “[a]fter adjudication of guilt, sentence shall be imposed without unreasonable delay.” Haw. R. Penal P. 32. Further, “restitution is a direct consequence of conviction,” and regardless of whether it is “imposed by free standing order, or as a condition of probation, restitution is part of the defendant’s sentence and judgment of conviction.” <i>Kealoha</i> , 414 P.3d at 112. Accordingly, sentencing courts order restitution “alongside the defendant’s other punishments.” <i>Id.</i> <i>See also</i> Haw. Rev. Stat. Ann. § 706-605(7) (granting courts the authority to order restitution as part of the “authorized disposition of convicted defendants”).

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	<p>However, the court must award restitution to victims of labor trafficking “notwithstanding a victim’s failure to request such restitution.” Haw. Rev. Stat. Ann. § 707-785(1) (“[T]he court shall order restitution to be paid to the victim consisting of an amount that is the greater of: (a) The total gross income or value to the defendant of the victim’s labor or services; or (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>	
Idaho	<p>In Idaho, restitution is mandatory according to constitutional amendment and statute unless the court determines such as award is “inappropriate or undesirable.” <i>See</i> Idaho Const. art. I, § 22(7) (recognizing a victim’s right “[t]o restitution, as provided by law, from the person committing the offense that caused the victim’s loss”); Idaho Code Ann. § 19-5304(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.”). <i>See also State v. Johnson</i>, --- P.3d ---, No. 46500, 2020 WL 881330, at *5 (Idaho Ct. App. Feb. 24, 2020) (finding that “[b]ecause the Idaho Constitution gives crime victims the right</p>	<p>Idaho courts are required to enter restitution orders “at the time of sentencing or such later date as deemed necessary by the court.” Idaho Code Ann. § 19-5304(6). <i>See State v. Dorsey</i>, 889 P.2d 93, 95 (Idaho Ct. App. 1995) (holding that the trial court appropriately exercised its authority in entering a restitution order nearly two years after the original probation order, which required the payment of restitution but did not disclose the amount or applicable payees, because “[a]lthough the order specified that the prosecutor would establish the sums due and submit a claim to defense counsel and the court within thirty days, the order did not purport to limit the recovery of restitution nor impose any sanction for noncompliance on the party of the</p>

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	<p>‘to restitution, as provided by law,’ additional statutory provisions further define the scope of restitution”). “The restitution statute evidences a policy favoring full compensation to crime victims who suffer economic loss.” <i>State v. Schultz</i>, 231 P.3d 529, 531 (Idaho Ct. App. 2008).</p> <p>*For assistance with how to best argue for restitution in jurisdictions with mandatory and discretionary restitution laws, please contact NCVLI.</p>	<p>prosecutor”). <i>Cf. State v. Ferguson</i>, 67 P.3d 1271, 1274 (Idaho Ct. App. 2002) (emphasis in original) (finding that although “the court may need to grant the prosecution a <i>reasonable</i> amount of time <i>necessary</i> to gather information so as to locate all victims and correctly compute the amount of restitution[,] [i]t does not . . . vest the court with the power to extend the entry of the order of restitution beyond the closing of the case and the discharge of the defendant”).</p>
Illinois	<p>In Illinois, restitution is mandated by state constitution and statute. <i>See</i> Ill. Const. art. I, § 8.1(a)(12) (providing that “[c]rime victims, as defined by law, shall have . . . the right to restitution”); 725 Ill. Comp. Stat. Ann. 120/4(a)(10) (“Crime victims shall have . . . [t]he right to restitution.”); 730 Ill. Comp. Stat. Ann. 5/5-5-6 (“In all convictions for offenses in violation of the Criminal Code of 1961 or the Criminal Code of 2012 or of Section 11-501 of the Illinois Vehicle Code in which the person received any injury to his or her 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</p>	<p>If the victim has asserted the right to restitution and the amount of restitution owed to the victim is known at the time of sentencing, an Illinois court is required to enter a judgment of restitution as part of defendant’s sentence. 725 Ill. Comp. Stat. Ann. 120/4.5(12)(A).</p> <p>If the victim has asserted the right to restitution but 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.” 725 Ill. Comp. Stat. Ann. 120/4.5(c-5)(12)(B).</p>

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	<p>an order directing the offender to make restitution is appropriate, the offender may be sentenced to make restitution.”); <i>see also People v. Fouts</i>, 745 N.E.2d 1284, 1286 (Ill. App. Ct. 2001) (“The restitution section of the Unified Code of Corrections has been broadly interpreted as an attempt to make victims whole as a result of any loss caused by the defendant, and to make the defendant responsible for all costs associated with the victim’s loss.”).</p>	<p>Within 60 days after sentencing, the prosecutor is required to “file and serve . . . 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.” 725 Ill. Comp. Stat. Ann. 120/4.5(c-5)(12)(B).</p> <p>“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.” 725 Ill. Comp. Stat. Ann. 120/4.5(c-5)(12)(B).</p>
<p>Indiana</p>	<p>In Indiana, victims have the right to seek restitution; however, the award of restitution is discretionary. Ind. Code Ann. § 35-50-5-3(a) (“[I]n 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</p>	<p>Indiana courts have held that “a trial court should enter a restitution order at the time of sentencing” and “lack[s] authority to enter a restitution order after sentencing where the trial court did not explicitly retain jurisdiction to continue the matter of restitution.” <i>Denning v. State</i>, 991 N.E.2d 160, 163 (Ind. Ct. App. 2013) (quoting <i>Wilson v. State</i>, 688 N.E.2d 1293, 1295 (Ind. Ct. App. 1997)). State rules</p>

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	<p>estate, or the family of a victim who is deceased.”); Ind. Code Ann. § 35-40-5-7 (“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.”). <i>See also Postiglione v. State</i>, 84 N.E.3d 659, 664 (Ind. Ct. App. 2017) (emphasis in original) (finding that “[a]n order of restitution lies within the trial court’s discretion and will be reversed only where there has been an abuse of discretion,” which only occurs in cases where “no evidence <i>or reasonable inferences therefrom</i> support the trial court’s decision”).</p> <p>*For assistance with how to best argue for restitution in jurisdictions with a discretionary restitution statute, please contact NCVLI.</p>	<p>of trial procedure further specify that unless the parties stipulate otherwise or the state supreme court extends the time for consideration, trial courts must enter a restitution order within ninety days of entering a defendant’s sentence and taking restitution under advisement. Ind. R. Trial P. 53.2. <i>See also Alexander v. State</i>, 987 N.E.2d 182, 185-86 (Ind. Ct. App. 2013) (“Finally, we note that it is a common practice in trial courts throughout our state for a trial judge to impose a sentence upon a defendant while taking restitution under advisement for various reasons. This practice, however, can prove to be problematic—as it has in this case—because it delays a defendant’s ability to begin an appeal due to the fact that a final order has not been entered. Consequently, this practice would affect a trial judge’s ability to advise a defendant of their appellate rights. Furthermore, when a trial court enters a sentence but takes restitution under advisement, the trial court is still subject to the ninety (90) day time limitation in Indiana Trial Rule 53.2 (‘the lazy judge rule’), which is applicable to criminal proceedings pursuant to Indiana Criminal Rule 15. Therefore, the best practice would be for trial courts to enter an order of restitution at the same time as sentencing.”), <i>vacated on other grounds</i>, 4 N.E.3d 1169 (Ind. 2014).</p>

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Iowa	<p>In Iowa, restitution is mandated by statute. Iowa Code Ann. § 910.2(1)(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 the victims of the offender’s criminal activities[.]”); Iowa Code Ann. § 910.1(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”); Iowa Code Ann. § 915.100(2) (“The right to restitution includes the following: (a) In all criminal cases in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgement 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.”); Iowa Code Ann. § 910.3B(1) (“In all criminal cases in which the offender is convicted of a felony in which the act or acts committed by the offender caused the death of another person, in addition to the amount determined to be payable and ordered to be paid to a victim for pecuniary damages, as defined under section 910.1, and determined under section 910.3, the court shall also order the offender to pay at least</p>	<p>Iowa statutes provide for an order of restitution as part of sentencing but allow for the determination of the amount of restitution to be made at a “later date.” Iowa Code Ann. § 910.2(1) (“the sentencing court shall order that restitution be made”); Iowa Code Ann. § 910.3 (“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”). In instances where 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 up to that time” and “[a]t a later date as determined by the court, the court shall issue a permanent, supplemental order, setting the full amount of restitution.” <i>Id.</i> “The court shall enter further supplemental order, if necessary. These court orders shall be known as the plan of restitution.” <i>Id.</i> Section 910.3 also provides that “[i]f 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.” Iowa courts have held, however, that the requirement to provide a statement of pecuniary damages “no more than thirty days after sentencing” is not jurisdictional. <i>See State v. Blakley</i>, 534</p>

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	<p>one hundred fifty thousand dollars in restitution to victim’s estate if the victim died testate. If the victim died intestate the court shall order the offender to pay the restitution to the victim’s heirs at law[.]”).</p>	<p>N.W.2d 645, 649 (Iowa 1995) “[T]here is no provision in section 910.3 that the failure of the State to abide the time requirement in this statute is fatal to the State’s effort to secure restitution for crime victims. Had the legislature intended such a consequence, it would have been easy to have said so. Because the legislature did not say so, we conclude the thirty-day language in section 910.3 was not intended to be jurisdictional.”).</p>
<p>Kansas</p>	<p>In Kansas, restitution is mandated by state statute, unless the court finds that restitution would be unworkable. <i>See</i> Kan. Stat. Ann. § 21-6604(b)(1) (“In addition to or in lieu of any of the above [authorized dispositions], 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 that would render a plan of restitution unworkable. . . . If the court finds a plan of restitution unworkable, the court shall state on the record in detail the reasons therefor.”); Kan. Stat. Ann. § 21-6607(c)(2) (“In addition to any other conditions of probation, suspension of sentence or assignment to a community correctional services program, the court shall order the defendant to . . . make . . . restitution to the aggrieved party for the damage or loss caused by the defendant’s crime, in an amount and manner</p>	<p>After a finding of guilt, if the victim or the victim’s family requests restitution, the court must hold a hearing to establish restitution before imposing the defendant’s sentence. Kan. Stat. Ann. § 22-3424(d)(1). Because restitution constitutes part of a defendant’s sentence, it must be set in open court, in the defendant’s presence. <i>State v. Martin</i>, 429 P.3d 896, 900 (Kan. 2018). The defendant may waive the right to a restitution hearing and accept the restitution amount set by the court. Kan. Stat. Ann. § 22-3424(d)(1). Where the victim or the victim’s family does not request restitution, the court may hold the restitution hearing after imposing the defendant’s sentence. <i>See State v. McDaniel</i>, 254 P.3d 534, 538 (Kan. 2011) (finding that the statutory requirement of a pre-sentence restitution hearing was directory, not mandatory and that the court’s failure to require a restitution hearing before sentencing did not deprive the district court of jurisdiction to order restitution</p>

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	<p>determined by the court and to the person specified by the court, unless the court finds compelling circumstances which would render a plan of restitution unworkable. If the court finds a plan of restitution unworkable, the court shall state on the record in detail the reasons therefore”); Kan. Stat. Ann. § 22-3717(n) (“If the court that sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of parole or postrelease supervision, the prisoner review board shall order as a condition of parole or postrelease supervision that the inmate pay restitution in the amount and manner provided in the journal entry unless the board finds compelling circumstances that would render a plan of restitution unworkable.”); <i>State v. Morley</i>, 448 P.3d 1066, 1076 (Kan. Ct. App. 2019) (“The payment of restitution to a crime victim is an important part of a defendant’s sentencing. It is also not optional, unless the district court finds that the defendant does not have the means to pay it.”); <i>State v. Herron</i>, 335 P.3d 1211, 1213 (Kan. Ct. App. 2014) (“[R]estitution is the rule, and finding that restitution is unworkable is the exception.”); <i>see also</i> Kan. Stat. Ann. § 22-3424(d)(2)(A) (mandating restitution for victims of human trafficking and commercial sexual exploitation of a child). The court must first determine the amount</p>	<p>after a post-sentencing hearing when neither the victim nor the victim’s family requested restitution). Although a defendant’s sentence is not complete until restitution is decided, a sentencing hearing may be continued or bifurcated so that restitution is ordered on one date and the amount set on another. <i>State v. Hall</i>, 319 P.3d 506, 512 (Kan. 2014). To retain jurisdiction over restitution, the court is not required to use any “magic words”, but it is expected to give “an explicit and specific order of continuance for the purpose of determining the amount of restitution.” <i>Id.</i> at 987; <i>see also State v. Kammerer</i>, No. 116,054, 2017 WL 2494807, at *5 (Kan. Ct. App. June 9, 2017) (concluding that the district court failed to preserve jurisdiction for resolution of restitution issues where it did not explicitly continue or bifurcate the sentencing hearing for restitution purposes). Additionally, while there is no express time limit on the continuation or bifurcation of sentencing, “[s]hould the State or the district judge postpone completion of sentencing too long, a defendant may move to expedite or seek a writ of mandamus. Extreme cases may warrant sanctions to be imposed.” <i>Id.</i></p>

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	of restitution owed, and then assess whether a plan of restitution is workable. <i>State v. Martin</i> , 429 P.3d 896, 902 (Kan. 2018).	
Kentucky	<p>In 2018, a proposed victims’ rights constitutional amendment that included the right to full restitution was submitted to the voters in Kentucky. However, in June 2019, the state supreme court voided the proposed amendment. <i>See Westerfield v. Ward</i>, --- SW.3d ---, No. 2018-CA-001510, 2019 WL 2463046, at *11 (Ky. June 13, 2019) (holding that the proposed amendment was void because its full text was not published and submitted at least ninety days before the vote).</p> <p>Restitution is also mandated by state statute. <i>See</i> Ky. Rev. Stat. Ann. § 532.032 (“(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. (2) If pretrial diversion is granted, restitution shall be a part of the diversion agreement. (3) If probation, shock probation, conditional discharge, or other alternative sentence is granted, restitution shall be a condition of the sentence. (4) If a person is sentenced to</p>	<p>Restitution is generally ordered as part of the sentencing process in Kentucky. The state’s restitution statutes implicitly require “an adversary hearing, ordinarily conducted in conjunction with the final sentencing hearing, at which the trial court will have broad discretion to make findings based upon reliable information, but not bound by the rules of evidence or traditional rules of pleading.” <i>Jones v. Commonwealth</i>, 382 S.W.3d 22, 31 (Ky. 2011). When the issue of restitution under Ky. Rev. Stat. Ann. § 532.032 “has not been resolved by an agreement between the Commonwealth and the defendant, constitutional due process requires an adversarial hearing that includes the following protections: reasonable notice to the defendant in advance of the sentencing hearing of the amount of restitution claimed and of the nature of the expenses for which restitution is claimed; and a hearing before a disinterested and impartial judge that includes a reasonable opportunity for the defendant, with assistance of counsel, to examine the evidence or other information presented in support of an order of restitution; and a reasonable opportunity for the defendant with assistance of counsel to present evidence or other information to rebut the claim of</p>

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	<p>incarceration and paroled, restitution shall be made a condition of parole. (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.”); Ky. Rev. Stat. Ann. § 533.030(3) (“When imposing a sentence of probation or conditional discharge in a case where a victim 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.”); <i>Fields v. Commonwealth</i>, 123 S.W.3d 914, 916 (Ky. Ct. App. 2003) (finding that, under Ky. Rev. Stat. Ann. § 532.032, “restitution must now be considered during sentencing in all appropriate cases”); <i>see</i></p>	<p>restitution and the amount thereof; and the burden shall be upon the Commonwealth to establish the validity of the claim for restitution and the amount of restitution by a preponderance of the evidence, and findings with regard to the imposition of restitution must be supported by substantial evidence.” <i>Jones</i>, 382 S.W.3d at 32.</p> <p>Kentucky trial courts may lose jurisdiction over a case ten days after entry of a final order or judgment. <i>Commonwealth v. Steadman</i>, 411 S.W.3d 717, 721 (Ky. 2013). The Kentucky Supreme Court discussed “best practices” for trial courts, which were encouraged to delay entering a final judgment until restitution is determined, so that it can be included in the final judgment. <i>Id.</i> at 725. Including restitution in the same order as the punitive sentence, however, is not mandatory, as “there may be reasons to enter an order regarding part of a sentence before entering an order as to another part, such as here when there may be a need for a separate hearing on a matter such as restitution” <i>Id.</i></p> <p>Additionally, Kentucky law provides courts with ongoing jurisdiction over certain probationers with respect to restitution. Ky. Rev. Stat. Ann. § 533.020 (noting that probation may be modified at any time prior to the expiration or termination of the probation period); <i>see also Commonwealth v. Adams</i>, 566</p>

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	<p><i>also</i> Ky. Rev. Stat. Ann. § 431.200 (“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 value of the property, or assess the damage, as the case may be.”).</p>	<p>S.W.3d 225, 231 (Ky. Ct. App. 2018) (concluding that the procedural requirements of Ky. Rev. Stat. Ann. § 532.033 must be met when imposing restitution during a probation term). A court explicitly retains jurisdiction to impose restitution post-sentencing for persons convicted of a misdemeanor or felony for taking, injuring or destroying property. Ky. Rev. Stat. Ann. § 431.200. A petition for restitution against such people must be made within ninety days of the date the sentence was pronounced. <i>Id.</i> If the defendant contests the restitution petition, a jury must be impaneled to try the facts and ascertain the amount and value of the property or assess the damage. <i>Id.</i> Where the court does not enter a restitution order as part of a sentencing order, pursuant to Ky. Rev. Stat. Ann. § 532.032, it may rely on this statute to enter a restitution order post-sentencing. Because Ky. Rev. Stat. Ann. § 532.032 requires the consideration of restitution during sentencing in <i>all</i> cases, courts have found that “Kentucky law now imposes no requirement of a separate jury trial to determine criminal restitution.” <i>Brown v. Commonwealth</i>, 540 S.W.3d 374, 376-77 (Ky. 2018).</p>
Louisiana	<p>The right of victims “to seek restitution” is recognized in the Louisiana Constitution. La. Const. art. I, § 25 (guaranteeing victims, <i>inter alia</i>, the “right to seek restitution,” directing the</p>	<p>If ordering restitution as part of a defendant’s sentence, Louisiana courts must specify the amount of restitution owed. <i>See, e.g.</i>, La. Stat. Ann. § 46:1844(M)(1); La. Code Crim. Proc. Ann. art.</p>

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	<p>legislature to “enact laws to implement” this right, and stating that Louisiana’s evidentiary and procedural laws must be interpreted in a manner consistent with affording such a right). Restitution is mandated by state statutory provisions. <i>See</i> La. Code Crim. Proc. Ann. art. 883.2(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.”); La. Stat. Ann. § 46:1844(M)(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.”); La. Stat. Ann. § 14:71.3(B)(2) (mandating the payment of full restitution to victims of mortgage fraud); La. Stat. Ann. § 15:539.3(A) (mandating restitution for various categories of victims, including victims of human trafficking, child pornography, and prostitution related crimes); La. Code Crim. Proc. art. 883.2(B) (“[I]f 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</p>	<p>895(A)(7);); La. Code Crim. Proc. Ann. art. 895.1(A)(1); <i>State v. Vidrine</i>, 280 So. 3d 664, 670 (La. Ct. App. 2019) (observing that whether restitution is “ordered as a condition of probation or as part of the principal sentence, the restitution order must be a certain amount determined by the court”). If the court fails to specify the amount to be paid in restitution when restitution is ordered as part of the principal sentence, that sentence is indeterminate, and, therefore, invalid; likewise, if the court fails to specify the amount to be paid in restitution as a special condition of probation, the defendant’s sentence is indeterminate and illegal. <i>State v. Hampton</i>, 261 So. 3d 993, 998 n.2 (La. Ct. App. 2018); <i>cf. State v. Perry</i>, 183 So. 3d 509, at *1 (La. 2016) (mem.) (“Restitution cannot always be determined with exactitude, and a trial court therefore has great discretion in setting the amount, as long as the trial court complies with [La. Code Crim. Proc.] art. 883.2.”). As such, once the court orders restitution, it may not leave the amount open. <i>See, e.g., State v. Baxley</i>, 139 So. 3d 556, 557-58 (La. Ct. App. 3d Cir. 2014) (vacating and remanding for resentencing where the trial court ordered restitution while reserving defendant’s right to a restitution hearing if “he and his probation officer could not agree on the amount of restitution owed”).</p>

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	<p>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.”). If the court finds the defendant indigent and unable to pay restitution in full at the time of conviction, the court may order a periodic payment plan. La. Code Crim. Proc. art. 883.2(D).</p> <p>Restitution must be ordered as a condition of probation where the victim suffered any direct loss of cash, any monetary loss due to damage to or loss of property, or medical expense. La. Code Crim. Proc. art. 895.1(A)(1); <i>see also</i> La. Code Crim. Proc. art. 895(A)(7) (court imposing conditions on probation may require the defendant to “[m]ake reasonable reparation or restitution to the aggrieved party for damage or loss caused by his offense in an amount to be determined by the court”). The parole board must order restitution as a condition of the defendant’s parole where the victim’s loss consists of damage to or loss of property; if the victim has suffered other direct pecuniary losses, the parole board has discretion to impose restitution as a condition of probation. La. Stat. Ann. § 15:574.4.2(C)(1)(a).</p>	
Maine	In Maine, the restitution statutes contain both mandatory and discretionary language. <i>See Me.</i>	State statute and case law indicate that restitution shall be ordered in the course of sentencing. <i>See Me.</i>

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	<p>Rev. Stat. Ann. tit. 17-A, § 2003(1) (providing, pursuant to the statute titled “mandatory consideration of restitution[,]” that “[t]he 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[,]” and that “[t]he order for restitution must designate the amount of restitution to be paid and the person or persons to whom the restitution must be paid”); Me. Rev. Stat. Ann. tit. 17-A, § 2001 (stating the legislature’s intention through the state’s restitution statutes to, <i>inter alia</i>, “encourage the compensation of victims by the person most responsible for the loss incurred by the victim, the offender[,]” as “[r]estitution 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 offender’s victim in a constructive manner and to ease the burden of the victim as a result of the criminal conduct”). <i>See also</i> Me. Rev. Stat. Ann. tit. 17-A, § 1501(2) (providing that “[t]he general purposes of the [sentencing] provisions . . . are to . . . [e]ncourage restitution in all cases in which the victim can be compensated and other purposes of sentencing can be appropriately served”); Me. Rev. Stat. Ann. tit. 17-A, § 2003(2) (requiring that in cases in which “the court determines that restitution should not be imposed in accordance with the criteria set forth in section 2005, the court shall</p>	<p>Rev. Stat. Ann. tit. 17-A, § 1502(4) (describing as one of the “authorized sentences” that “[t]he court may require an individual convicted of a crime to make restitution as authorized by chapter 69” and that “[s]ubject to the limitations of chapter 69, restitution may be imposed as a condition of probation or may be imposed in addition to any other sentencing alternative included within subsection 2 with the exception of an unconditional discharge”); <i>see also State v. Gagne</i>, 199 A.3d 1179, 1185 (Me. 2019) (noting that “[i]f the identity or location of a victim cannot be determined at the time of sentencing, the court remains authorized to impose a restitution order, after which the State must forward restitution payments to the county where the case is prosecuted,” and clarifying that “even the initial issuance of an enforceable restitution order is not predicated on the availability of a victim”); <i>State v. Lewis</i>, 711 A.2d 119, 124 (Me. 1998) (“The time and method of payment must be specified in a restitution order and cannot be deferred to a later time.”).</p>

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	<p>state in open court or in writing the reasons for not imposing restitution”); Me. Rev. Stat. Ann. tit. 17-A, § 2005(2)(A), (D) (providing that “[r]estitution is not authorized “[t]o a victim without that victim’s consent” or where “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”); <i>State v. Basu</i>, 875 A.2d 686, 694 (Me. 2005) (noting that “[t]he imposition of restitution is discretionary”).</p> <p>*For assistance with how to best argue for restitution in jurisdictions with mandatory and discretionary language, please contact NCVLI.</p>	
Maryland	<p>In Maryland, restitution is mandated for theft crimes by state statute. Md. Code Ann., Crim. Law § 7-104(g)(1) (requiring that convicted persons “shall restore the property taken to the owner or pay the owner the value of the property or services”); <i>see also Ingram v. State</i>, 197 A.3d 14, 23-24 (Md. 2018) (finding that statute mandating restitution for theft victims to be an exception to general procedural statute governing restitution, which grants courts discretion in ordering restitution). Restitution for victims of other offenses is subject to the court’s discretion. <i>See</i> Md. Code Ann., Crim. Proc. § 11-603(a) (“A court may enter a judgment of restitution that orders a defendant or child respondent to make restitution in</p>	<p>Restitution may be imposed as part of a sentence or as a condition of probation. <i>See, e.g., Lafontant v. State</i>, 13 A.3d 56, 61-62 (Md. Ct. Spec. App. 2011). The court must be presented with evidence of the victim’s losses. Md. Code Ann., Crim. Proc. § 11-603(b)(2). In the type of restitution hearing held pursuant to Md. Code Ann., Crim. Proc. § 11-603, “a written statement or bill for medical, dental, hospital, counseling, funeral, or burial expenses is legally sufficient evidence of the amount, fairness, and reasonableness of the charges and the necessity of the services or materials provided.” Md. Code Ann., Crim. Proc. § 11-615(a).</p>

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	<p>addition to any other penalty for the commission of a crime or delinquent act, if: (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: (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; (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; (5) the Criminal Injuries Compensation Board paid benefits to a victim; or (6) the Maryland Department of Health or other governmental unit paid expenses incurred under Subtitle 1, Part II of this title.”).</p> <p>Even where restitution is discretionary under Md. Code Ann., Crim. Proc. § 11-603(a), a victim is presumed to have a right to restitution under the statute, if “(1) the victim or the State requests restitution; and (2) the court is presented with competent evidence of any item listed in [Md. Code</p>	<p>Victims have the right to request restitution under Md. Code Ann., Crim. Proc. § 11-603(b). The statute does not specify a time frame in which they must make such a request. <i>See Lafontant</i>, 13 A.3d at 61 (noting the lower court’s observation that the plain language of the law “says that the victim has a right to request restitution in a criminal proceeding, without specifying a time frame in which the restitution must be requested” and affirming restitution order where victim first requested restitution at hearing during which defendant entered into a plea agreement that was silent as to restitution). If a victim’s right to restitution under Md. Code Ann., Crim. Proc. § 11-603 is not considered or was improperly denied, the victim may file a motion requesting relief within thirty days of the denial or failure to consider. Md. Code Ann., Crim. Proc. § 11-103(e)(4)(i). Should the court find in favor of the victim, it may enter a judgment of restitution. Md. Code Ann., Crim. Proc. § 11-103(e)(4)(ii); <i>see also Antoine v. State</i>, No. 2880, --- A.3d ---, 2020 WL 487289, at *16 (Md. Ct. Spec. App. Jan. 30, 2020) (finding that the victims’ rights were violated and vacating defendant’s sentence and plea agreement and remanding to the circuit court for reconsideration of the plea agreement after affording the victim an opportunity to present victim impact evidence about, <i>inter alia</i>, restitution).</p>

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	<p>Ann., Crim. Proc. § 11-603(a)].” Md. Code Ann., Crim. Proc. § 11-603(b). Although a victim’s right to restitution is presumed, a preponderance of the evidence must still support the award; once such evidence is provided, “the court should award the victim that amount of restitution unless the court determines it is not appropriate to do so.” <i>Juliano v. State</i>, 890 A.2d 847, 854 (Md. Ct. Spec. App. 2006). A court need not issue discretionary restitution if it finds: “(1) that the restitution obligor does not have the ability to pay the judgment of restitution; or (2) that there are extenuating circumstances that make a judgment of restitution inappropriate.” Md. Code Ann., Crim. Proc. § 11-605(a). If a court refuses to order restitution, it must state its reasons for doing so on the record. Md. Code Ann., Crim. Proc. § 11-605(b).</p> <p>*For assistance with how to best argue for restitution in jurisdictions with mandatory and discretionary language, please contact NCVLI.</p>	
Massachusetts	<p>In Massachusetts, victims have the right to request restitution; however, the award of restitution is discretionary. <i>See</i> Mass. Gen. Laws Ann. ch. 258B, § 3(o) (guaranteeing that, “[t]o 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 fundamental rights, to the greatest extent</p>	<p>Massachusetts case law indicates that restitution shall be ordered in the course of sentencing. <i>See Commonwealth v. Nawn</i>, 474 N.E.2d 545, 550 (Mass. 1985) (“There is no question that restitution is an appropriate consideration in a criminal sentencing.”). The procedure for establishing an order of restitution must be “fair and reasonable[,]” and the government bears the burden of establishing the amount of loss by a preponderance of the</p>

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	<p>possible and subject to appropriation and to available resources” including, the right of 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”); <i>Commonwealth v. Casanova</i>, 843 N.E.2d 699, 704 (Mass. App. Ct. 2006) (explaining that restitution “is an appropriate consideration in a criminal sentencing[.]” and “[a] judge’s power to order restitution as a component sanction of criminal sentencing is unquestionable”).</p> <p>Restitution may be a required component of the disposition in certain cases. <i>See, e.g.</i>, Mass. Gen. Laws Ann. ch. 276, § 92A (requiring restitution in cases involving motor vehicle theft or fraudulent claims).</p> <p>*For assistance with how to best argue for restitution in jurisdictions with mandatory and discretionary language, please contact NCVLI.</p>	<p>evidence. <i>See, e.g., Commonwealth v. McIntyre</i>, 767 N.E.2d 578, 581-83 (Mass. 2002) (citations omitted).</p> <p>Before disposition in a case where “defendant has been found guilty of any felony or any crime against the person or crime where physical injury to a person results, excluding any crime for which a sentence of death may be imposed, and which involves an identified victims whose whereabouts are known . . . the district attorney shall cause to be prepared a written statement as to the impact of the crime on the victim, which shall be filed with the court as part of the presentence report and made available to the defendant. The statement shall include the following: . . . (2) documentation of the net financial loss, if any, suffered by the victim or a family member as a result of the crime” Mass. Gen. Laws Ann. ch. 279, § 4B.</p>
Michigan	<p>In Michigan, restitution is mandated by the state constitution and statute. <i>See</i> Mich. Const. art. I, § 24(1) (“Crime victims, as defined by law, shall have the following rights, as provided by law: . . . The right to restitution.”); Mich. Comp. Laws Ann. § 780.766(2) (recognizing the right to “full restitution” under Article 1 of the Crime Victim’s Rights Act, which addresses rights for victims of felony offenses); Mich. Comp. Laws Ann. § 780.766b (recognizing the right to “restitution for</p>	<p>Michigan law does not specify a date for entry of a restitution order, but it may be issued at sentencing. <i>See, e.g., Mich. Comp. Laws Ann. § 780.766(2)</i> (“[W]hen sentencing a defendant convicted of a crime [that is a felony], 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</p>

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	<p>the full amount of loss” for trafficking victims); Mich. Comp. Laws Ann. § 780.794(1)-(2) (recognizing the right to “full restitution” under Article 2 of the Crime Victim’s Rights Act, which addresses rights for victims in juvenile proceedings); Mich. Comp. Laws Ann. § 780.826(1)-(2) (recognizing the right to “full restitution” under Article 3 of the Crime Victim’s Rights Act for victims of all misdemeanor offenses, even though the rest of Article 2 addresses rights for victims of “serious misdemeanor” offenses); <i>see also</i> Mich. Comp. Laws Ann. § 769.1a(2) (recognizing the right to “full restitution” for victims of “a felony, misdemeanor, or ordinance violation” under the general sentencing chapter). <i>See also People v. Garrison</i>, 852 N.W.2d 45, 48-49 (Mich. 2014) (concluding that courts have a duty to order restitution that is “full,” which means “maximal and complete” and that the trial court properly awarded restitution for expenses not expressly listed in the restitution statutes).</p>	<p>victim’s estate.”); <i>see also</i> Mich. Comp. Laws Ann. § 769.1a(2) (“[W]hen 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>
Minnesota	<p>In Minnesota, restitution is mandated by state statute. <i>See</i> Minn. Stat. Ann. § 611A.04(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.”); <i>see also</i> Minn. Stat. Ann. § 611A.045(a) (describing factors courts should consider when awarding restitution); <i>State v.</i></p>	<p>Minnesota law does not specify a date for entry of a restitution order, but it may be issued at sentencing, or thereafter if (1) the offender is committed to the commissioner or on probation or supervised release; (2) sufficient evidence was submitted; and (3) the true loss was not known at the sentencing. <i>See</i> Minn. Stat. Ann. § 611A.04(1)(a), (b)(1)-(3) (“The issue of restitution is reserved or the sentencing or dispositional hearing or hearing on the restitution</p>

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	<p><i>Gaiovnik</i>, 794 N.W.2d 643, 652 (Minn. 2011) (court has authority to order restitution even if the victim does not request it).</p>	<p>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.”); <i>see also State v. Johnson</i>, 851 N.W.2d 60, 66 (Minn. 2014) (affirming jurisdiction of court to enter restitution order against defendant eight years after he was sentenced, and remanding for fact-finding by the trial court regarding the amount of the victim’s losses); <i>State v. Caldwell</i>, 803 N.W.2d 373, 391 (Minn. 2011) (rejecting defendant’s argument that the district court’s failure to determine the amount of restitution owed or defendant’s resources when it imposed restitution violated his constitutional rights, and holding that neither determination is required at the time of sentencing by Section 611A.04(b)(1)-(3)); <i>Abdulkadir Ali Mohamud v. State</i>, No. A14-1105, 2015 WL 1514047, at *2 (Minn. Ct. App. Apr. 6, 2015) (explaining that “[u]pon the conviction of the offender, ‘[a] victim of a crime has the right to receive restitution [for any out-of-pocket losses] as part of the disposition of a criminal charge.’ Minn.Stat. § 611A.04, subd. 1(a) (2014)[,]” and that “[g]enerally, restitution must be sought before sentencing in order to be considered at sentencing[,]” but that “[t]he issue of restitution is reserved . . . if the victim’s affidavit or other competent evidence</p>

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		<p>submitted by the victim is not received in time [for sentencing]”).</p> <p>“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.” Minn. Stat. Ann. § 611A.04(1)(a).</p>
Mississippi	<p>In Mississippi, restitution is generally discretionary. <i>See, e.g.</i>, Miss. Code. Ann. § 99-37-3(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).”); <i>Smith v. State</i>, 130 So. 3d 1187, 1190 (Miss. Ct. App. 2014) (citing Mississippi code sections in stating that “a circuit court has the authority to impose restitution for criminal activities for which the defendant is convicted”). “If the court determines that restitution is inappropriate or undesirable, an order reciting such finding shall be entered, which should</p>	<p>State statute and case law indicate that restitution may be ordered in the course of sentencing. <i>See</i> Miss. Code. Ann. § 99-37-3(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”); Miss Code Ann. § 99-37-3(3) stating that if 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”); <i>see also Sims v. State</i>, 134 So. 3d 300, 304 (Miss. 2014) (finding, in a case involving defendant’s challenge to a restitution order benefitting a victim of a crime for which he was not convicted under the plea, that defendant waived any objection to the</p>

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	<p>also state the underlying circumstances for such determination.” Miss. Code. Ann. § 99-37-3(4).</p> <p>Courts are required to order restitution for victims of specific crimes. <i>See, e.g.</i>, Miss. Code. Ann. § 97-3-54.6(2) (mandating restitution awards for trafficking victims in “the full amount of the victim’s pecuniary damages[,]” regardless of any other statutory provisions).</p> <p>*For assistance with how to best argue for restitution in jurisdictions with mandatory and discretionary language, please contact NCVLI.</p>	<p>restitution order by “fail[ing] to object at the time of sentencing”).</p>
Missouri	<p>In Missouri, restitution is mandated for certain crime victims by state statute. <i>See, e.g.</i>, Mo. Ann. Stat. § 566.218 (mandating restitution for victims of human trafficking and sex trafficking, “regardless of whether the defendant is sentenced to a term of imprisonment or probation”); Mo. Ann. Stat. § 570.095(4) (mandating restitution for victims of filing of false documents).</p> <p>For other crime victims, restitution is subject to the court’s discretion under state constitution and statute. <i>See</i> Mo. Const. art. I, § 32(1)(4) (providing victims the right, as defined by law, “to restitution, which shall be enforceable in the same manner as any other civil cause of action, or as otherwise provided by law”); Mo. Ann. Stat. § 559.105(1)</p>	<p>Courts are to order restitution in connection with judgment and sentencing. <i>See Bosworth v. State</i>, 559 S.W.3d 5, 11 (Mo. Ct. App. 2018) (finding that “[i]n a criminal case, a final judgment occurs when a sentence is entered” and that, “[o]nce judgment and sentencing occur in a criminal proceeding, the trial court has exhausted its jurisdiction and can take no further action in that case except when otherwise expressly provided by statute or rule”; and concluding that the trial court was without jurisdiction to issue amended judgments with respect to restitution); <i>see also</i> Mo. Ann. Stat. § 559.105(4) (“The court may set an amount of restitution to be paid by the defendant.”). Where there is a dispute as to the amount of restitution, it may be resolved at a post-trial hearing. <i>Cf. State v. Mann</i>, 23 S.W.3d 824,</p>

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	<p> (“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.”); <i>see also</i> Mo. Ann. Stat. § 595.209(1)(11) (providing victims the right, <i>inter alia</i>, “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”). <i>See also</i> Mo. Ann. Stat. § 558.019(9)(1) (“If the imposition or execution of a sentence is suspended, the court may order . . . [r]estitution to any victim or a statutorily created fund for costs incurred as a result of the offender’s actions.”); Mo. Ann. Stat. § 559.021(2)(1) (“In addition to such other authority as exists to order conditions of probation, the court may order . . . [r]estitution 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”); Mo. Ann. Stat. § 559.105(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 for</p>	<p>837 (Mo. Ct. App. 2000) (finding defendant waived his right to a further hearing on the state’s request for restitution where, in response to the trial court’s inquiry at a post-trial hearing on restitution as to whether he desired any testimony, defendant only argued against the specific requests in the state’s motion and made no attempt to offer evidence on his behalf). Where an oral sentence is silent as to restitution, but the record indicates that defendants knew they were agreeing to pay restitution as part of a plea, the written judgment and sentence containing a restitution order remains effective. <i>See, e.g., Borneman v. State</i>, 573 S.W.3d 81, 83 (Mo. Ct. App. 2019) (affirming the written sentence, which included an order to pay restitution, where the plea agreement expressly required defendant to pay restitution but where the orally-pronounced sentence omitted mention of restitution).</p>

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	<p>such offense until the person has completed such restitution, or until the maximum term of parole for such offense has been served.”).</p> <p>*For assistance with how to best argue for restitution in jurisdictions with mandatory and discretionary language, please contact NCVLI.</p>	
Montana ²	<p>Restitution is mandated by state statute. <i>See</i> Mont. Code Ann. § 46-18-201(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 . . . 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.”); Mont. Code Ann. § 46-18-241(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</p>	<p>Pursuant to state statute, if the court finds that the victim has sustained a pecuniary loss, it must as part of defendant’s sentence require him or her to pay “full restitution to the victim.” Mont. Code Ann. § 46-18-201(5). As part of sentencing, the court is required to “specify the total amount of restitution that the offender shall pay.” Mont. Code Ann. § 46-18-244(1); <i>see also State v. Meyers</i>, 168 P.3d 645, 650 (Mont. 2007) (holding that the district court erred in ordering defendant to pay restitution to the victims but leaving open the total amount of restitution to be paid, and remanding for determination of amount); <i>see also State v. Pritchett</i>, 11 P.3d 539, 541–42 (Mont. 2000) (holding that the district court’s failure “to specify the amount, method and time of each [restitution] payment he was to make to the victim invalidated the court’s restitution order” and that the district court did not have the authority to leave these</p>

² Montana restitution was mandated by state constitution—Mont. Const. art. II, § 36(n), guaranteeing the right of victims “to full and timely restitution”—however, the Montana Supreme Court held on November 1, 2017, that the procedure by which the proposed amendment was submitted to voters violated the separate vote requirement, and for that reason the constitutional amendment was void in its entirety. *Montana Assoc. of Counties v. State*, 404 P.3d 183 (Mont. 2017).

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	<p>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.”); <i>State v. Johnson</i>, 14 P.3d 480, 485 (Mont. 2000) (“Under § 46-18-201(2), MCA (1997) (now subsection (5) under 1999 MCA), as well as § 46-18-241(1), MCA, a sentencing judge must, as a matter of law, impose restitution in a sentence for the full amount of a victim’s pecuniary loss.”).</p>	<p>determinations to the discretion of the probation officer).</p> <p>If the oral pronouncement of sentence or other disposition conflict with the written judgment, the defendant or the prosecutor may—within 120 days after the filing of the written judgment—request that the court modify the written judgment to conform to the oral pronouncement. Mont. Code Ann. § 46-18-116(2). The oral pronouncement will control when a conflict exists between it and the written judgment. <i>See State v. Kroll</i>, 95 P.3d 717, 721 (Mont. 2004) (“The oral pronouncement of sentence continues to control in situations in which a conflict exists between the oral and written judgments. Section 46–18–116, MCA, simply provides the parties an avenue for conforming the written judgment to the oral pronouncement of sentence.”); <i>see also State v. Humphrey</i>, No. 98-327, 1999 WL 1324234, at *2 (Mont. Dec. 22, 1999) (holding that in case in which the district court’s written judgment included restitution but the oral pronouncement of sentence did not, “the oral pronouncement of sentence is the <i>final</i> judgment and . . . [defendant] is not subject to resentencing,” and remanding to the district court “for entry of a written judgment consistent with the oral pronouncement of sentence”).</p>
Nebraska	<p>In Nebraska, restitution is generally discretionary. <i>See, e.g.</i>, Neb. Rev. Stat. Ann. § 29-2280 (“A sentencing court may order the defendant to make</p>	<p>Statutory language and case law indicate that restitution is addressed in the course of sentencing. <i>See</i> Neb. Rev. Stat. Ann. § 29-2280 (“A sentencing</p>

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
	<p>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.”). Courts are, however, required to order restitution in cases involving specific crimes. <i>See, e.g.</i>, Neb. Rev. Stat. Ann. § 44-8314(4) (providing that a person who “collects fees for purported membership in a discount medical plan but purposefully fails to provide the promised benefits commits a fraudulent insurance act under section 28-631” and, “upon conviction, such person shall be ordered to pay restitution to persons aggrieved by the violation of the act”).</p> <p>*For assistance with how to best argue for restitution in jurisdictions with mandatory and discretionary language, please contact NCVLI.</p>	<p>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.”); Neb. Rev. Stat. Ann. § 29-2281 (“To determine the amount of restitution, the court may hold a hearing at the time of sentencing.”); <i>State v. Mettenbrink</i>, 520 N.W.2d 780, 783 (Neb. Ct. App. 1994) (“A restitution order is part of a criminal sentence.”).</p>
Nevada	<p>In Nevada, restitution is mandated by state constitution and, for certain crime victims, by statute. <i>See, e.g.</i>, Nev. Const. art. 1, § 8A(1)(I) (affording all victims the right to “full and timely restitution”); Nev. Rev. Stat. Ann. § 90.650(1) (mandating restitution for victims of Uniform Securities Act violations); Nev. Rev. Stat. Ann. §</p>	<p>A judgment of conviction must include the amount and terms of any restitution ordered. Nev. Rev. Stat. Ann. § 176.105(1)(c); <i>Witter v. State</i>, 452 P.3d 406, 408-09 (Nev. 2019) (“[W]e remain convinced that given our statutory scheme, the specific amount of restitution is a weighty matter that must be included in the judgment of conviction when the sentencing court determines that restitution is warranted.”).</p>

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
	<p>202.445(5) (mandating restitution for victims of terrorism).</p> <p>Some state restitution statutes incorporate discretionary language. <i>See, e.g.</i>, Nev. Rev. Stat. Ann. § 176.033(1)(c)³ (“If a sentence of imprisonment is required or permitted by statute, the court shall . . . [i]f 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.”); Nev. Rev. Stat. Ann. § 176A.430(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.”); Nev. Rev. Stat. Ann. § 200.466(1) (court may order restitution in involuntary servitude cases); Nev. Rev. Stat. Ann. § 200.469(1) (court may order restitution in human trafficking cases); Nev. Rev. Stat. Ann. § 201.325(1) (court may order restitution in sex trafficking and prostitution cases).</p>	<p>Because a court is statutorily required to set forth the specific amount of restitution in the judgment of conviction, a court errs when it imposes restitution “in an uncertain amount to be determined in the future.” <i>Witter</i>, 452 P.3d at 408.</p> <p>State law authorizes the creation of a program, within a district attorney’s office, to obtain full restitution for victims of checks that were fraudulent or otherwise written without sufficient funds to back them. <i>See</i> Nev. Rev. Stat. Ann. § 205.466. Under this program, the district attorney may enter into an agreement with the offender, pursuant to which the offender, <i>inter alia</i>, pays full restitution to the victim in exchange for the district attorney not filing criminal charges. Nev. Rev. Stat. Ann. § 205.469.</p>

³ Currently, this restitution provision is contained in Nev. Rev. Stat. Ann. § 176.033(1)(c). Effective July 1, 2020, the same text will appear in Nev. Rev. Stat. Ann. § 176.033(3).

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	*For assistance with how to best argue for restitution in jurisdictions with mandatory and discretionary restitution laws, please contact NCVLI.	
New Hampshire	<p>In New Hampshire, consideration of restitution by the court is required by state statute; however, ordering restitution is discretionary for most crime victims. <i>See</i> N.H. Rev. Stat. Ann. § 21-M:8-k(II)(j) (guaranteeing victims “[t]he right to restitution, as granted under RSA 651:62-67 or any other applicable state law . . . for their losses”); N.H. Rev. Stat. Ann. § 651:63(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.”). New Hampshire courts are to presume that a defendant who is responsible for a victim’s loss will pay restitution to that victim. <i>State v. Pinault</i>, 120 A.3d 913, 916 (N.H. 2015) (“Courts are to presume that a defendant responsible for a victim’s loss will pay restitution.”); <i>see also</i> N.H. Rev. Stat. Ann. § 651:61-a(I) (“It is the purpose of [New Hampshire’s restitution statutes] to establish a presumption that the victim will be compensated by the offender who is responsible for the loss.”). Restitution is mandated by state statutory provisions for certain crime victims, including victims of human trafficking, N.H. Rev. Stat. Ann. § 633:10(I), and victims of financial exploitation of</p>	<p>Restitution must be ordered at the time sentence is imposed, but the exact amount owed may be left open for a subsequent restitution hearing. <i>See</i> N.H. Rev. Stat. Ann. § 651:63(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.”); <i>State v. Gibson</i>, 999 A.2d 240, 241-42 (N.H. 2010) (noting that, as part of his sentence, defendant was ordered to make restitution in an amount to be determined at a later date and that a restitution hearing was held one year after the initial sentencing); <i>see also State v. Benoit</i>, No. 2014-0091, 2015 WL 11071116, at *1 (N.H. Feb. 19, 2015) (noting that defendant accepted a plea bargain and the court ordered restitution in an amount to be determined at a later hearing). The department of corrections has the authority to set the time and method of restitution payments, N.H. Rev. Stat. Ann. § 651:64(I), but only the trial court may set the amount of restitution owed, N.H. Rev. Stat. Ann. § 651:63(I); <i>State v. Bent</i>, 37 A.3d 390, 392 (N.H. 2012) (observing that “[w]hile the department of corrections has authority to set the time and method of restitution payments, and to enforce a restitution</p>

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
	<p>an elderly, disabled or impaired adult, N.H. Rev. Stat. Ann. § 631:10(II).</p> <p>*For assistance with how to best argue for restitution in jurisdictions with mandatory and discretionary restitution laws, please contact NCVLI.</p>	<p>order, . . . only the court has the authority to set the amount of restitution”).</p> <p>Restitution may be ordered as a condition of probation, parole or conditional discharge. <i>See, e.g.</i>, N.H. Rev. Stat. Ann. §§ 651:2(V)(g), 651:2(VI), 651:63(II).</p>
New Jersey	<p>In New Jersey, restitution is mandated by state statute when the defendant is able to pay or will be able to pay in the future. <i>See</i> N.J. Stat. Ann. § 2C:44-2(b) (“The court shall sentence a defendant to pay restitution in addition to a sentence of imprisonment or probation that may be imposed if: (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.”); <i>see also</i> N.J. Stat. Ann. § 2C:44-2(c)(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.”); N.J. Stat. Ann. § 52:4B-36(i) (guaranteeing crime victims the right “[t]o be compensated for loss sustained by the victim whenever possible”).</p>	<p>New Jersey courts order restitution in connection with sentencing. <i>See, e.g.</i>, N.J. Stat. Ann. § 2C:43-3; N.J. Stat. Ann. § 2C:44-2. Before ordering restitution, the court must determine whether (1) the victim suffered a loss and (2) whether the defendant presently has or, in the future, will have an ability to pay restitution. N.J. Stat. Ann. § 2C:44-2(b). If there is a good faith dispute over the amount of the victim’s losses or the defendant’s ability to pay, the court must conduct a restitution hearing. <i>See, e.g., State v. Jamiolkoski</i>, 639 A.2d 1144, 1145 (N.J. Super. Ct. App. Div. 1994) (“Where there is a good faith dispute over the amount of the loss or defendant’s ability to pay, the trial court as a matter of defendant’s due process entitlement, must hold a hearing on the issue . . .”). If there is no dispute over the amount of restitution or the defendant’s ability to pay, a restitution hearing is not required. <i>See, e.g., State v. Orji</i>, 649 A.2d 1368, 1371 (N.J. Super. Ct. App. Div. 1994) (finding no entitlement to</p>

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
	<p>For certain crime victims, restitution is mandated by state statutory provisions without regard to defendant’s ability to pay. <i>See, e.g.</i>, N.J. Stat. Ann. § 2C:11-3c (mandating restitution for nearest surviving relative of murder victim); N.J. Stat. Ann. § 2C:13-8(e) (mandating restitution for human trafficking victims); N.J. Stat. Ann. § 2C:43-3 (“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.”); <i>see also</i> N.J. Stat. Ann. § 2C:43-2.1 (mandating restitution to victims of motor vehicle theft or unlawful taking for certain losses); <i>State v. Jones</i>, 789 A.2d 131, 132 (N.J. Super. Ct. App. Div. 2002) (“Unlike the general restitution statute, N.J.S.A. 2C:43–2.1 imposes a mandatory obligation for restitution and is not dependent in any way upon defendant’s financial resources or ability to pay.”); <i>but see State v. Robinson</i>, 2011 WL 1543355, at * 8 (N.J. Super. Ct. App. Div. Apr. 26, 2011) (<i>per curiam</i>) (vacating restitution portion of judgment in murder case because, <i>inter alia</i>, the court failed to consider defendant’s ability to pay, even though N.J. Stat. Ann. § 2C:11-3c does not expressly require such consideration).</p>	<p>a restitution hearing where the amount of restitution and defendant’s ability to pay were not disputed). The court may order restitution to be paid within a specified period of time or in specified installments. N.J. Stat. Ann. § 2C:46-1(a). If it does not make such specifications, the restitution is due upon imposition of the order. <i>Id.</i></p> <p>Restitution may be ordered as a condition of probation. N.J. Stat. Ann. § 2C:46-1(b)(1). It also may be ordered as a condition of parole, the amount of which must be set by the sentencing court upon request of the parole board. N.J. Stat. Ann. § 30:4-123.59(b)(1).⁴</p>

⁴ The text of the current statute is effective through October 11, 2020; similar language is incorporated in the version that will be effective November 1, 2020.

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	<p>One of the purposes of the provisions governing sentencing in New Jersey is “[t]o promote restitution to victims.” <i>Id.</i> at § 2C:1-2(b)(8).</p> <p>*For assistance with how to best argue for restitution in jurisdictions with mandatory and discretionary restitution laws, please contact NCVLI.</p>	
New Mexico	<p>In New Mexico, restitution is mandated by state constitution in cases involving certain offenses, and is governed by state statute in certain other situations. <i>See</i> N.M. Const. art. II, § 24(A)(8) (providing that 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: . . . (8) the right to restitution from the person convicted of the criminal conduct that caused the victim’s loss or injury”); N.M. Stat. Ann. § 30-15-1.1(B), (C) (mandating restitution for victims of unauthorized graffiti on personal or real property); N.M. Stat. Ann. § 30-52-1(F) (mandating restitution for victims of human trafficking); N.M. Stat. Ann. § 31-17-1(A), (B) (stating that “[i]t is the policy of</p>	<p>Where the court orders a sentence deferred or suspended, the court must require—as a condition of probation or parole—that the defendant and the probation or parole officer prepare a plan of restitution, including a specific amount of restitution to pay to each victim and a schedule of payments. <i>See</i> N.M. Stat. Ann. § 31-17-1(B). If defendants believe that they will not be able to make any restitution payments, they must make a statement to that effect and specify the reasons. <i>Id.</i> Defendant’s restitution plan and recommendations of the probation or parole officer must be submitted promptly to the court. N.M. Stat. Ann. § 31-17-1(C). The court must then “promptly enter an order approving, disapproving or modifying the plan, taking into account the factors enumerated in [N.M. Stat. Ann. 31-17-1(D)]. Compliance with the plan of restitution as approved or modified by the court shall be a condition of the defendant’s probation or parole.” <i>Id.</i></p>

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
	<p>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” and mandating the creation of a plan of restitution when a sentence is deferred or suspended, where defendant has the ability to pay); <i>see also</i> N.M. Stat. Ann. § 31-26-4(H); N.M. Stat. Ann. § 31-26-3(B) (providing that “[a] victim shall have the right to . . . restitution from the person convicted of the criminal offense that caused the victim’s loss or injury” where “criminal offense” is defined to include 21 specific offenses).</p> <p>*For assistance with how to best argue for restitution in jurisdictions with mandatory and discretionary restitution laws, please contact NCVLI.</p>	<p>New Mexico’s victim restitution statute does not expressly address the procedure for ordering restitution in matters where a defendant’s sentence is not deferred or suspended. New Mexico courts have nonetheless found that a court must comply with the general requirements of the statute when ordering restitution in such contexts. <i>See, e.g., State v. Palmer</i>, 957 P.2d 71, 74 (N.M. 1998) (stating that “[i]n ordering restitution, the district court must comply with the victim restitution statute” and upholding earlier case law finding that the restitution statute grants the district court authority to include a restitution provision in a sentence without having to wait for the commencement of probation or parole); <i>see also</i> N.M. Stat. Ann. § 31-17-1(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.”).</p>
New York	<p>In New York, consideration of restitution by the court is required by state statute, however the award of restitution is discretionary. <i>See</i> N.Y. Penal Law § 60.27(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</p>	<p>Penal Law section 60.27 directs a sentencing court to “consider restitution or reparation to the victim of the crime,” and permits the court to “require restitution or reparation as part of the sentence imposed.” <i>See also</i> N.Y. Crim. Proc. Law § 420.10(1)(a)(i)-(iii) (regarding the imposition of fines and restitution by the court); <i>People v. Horne</i>, 767 N.E.2d 132, 136 (N.Y. 2002) (“Where an order of restitution or reparation is requested, the sentencing court must determine whether it is warranted and, if so, the</p>

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
	<p>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.”); N.Y. Exec. Law § 646-a(f) (the district attorney shall provide the victim with an information pamphlet describing “the rights of crime victims to request restitution and have the district attorney present such request to the court and assist the crime victim in the filing and collection of a restitution order”).</p> <p>*For assistance with how to best argue for restitution in jurisdictions with a discretionary restitution statute, please contact NCVLI.</p>	<p>proper amount of the award.”); <i>People v. Periard</i>, 788 N.Y.S.2d 725, 725–26 (N.Y. App. Div. 2005) (concluding that “[p]ursuant to Penal Law § 60.27(1), when the court is made aware that the victim seeks restitution, it shall order the defendant ‘to make restitution of the fruits of his or her offense’ unless the interests of justice dictate otherwise”).</p> <p>“When a court orders restitution, it must set a fixed monetary value.” <i>People v. Hong Ping Lou</i>, 751 N.Y.S.2d 44, 46 (N.Y. App. Div. 2002); <i>see also People v. Dickson</i>, 690 N.Y.S.2d 282, 285 (N.Y. App. Div. 1999) (concluding that the order of restitution imposed following defendant’s convictions for robbery and larceny, which gave the state 90 days “to verify the amount” of loss, improperly directed defendant to pay restitution in an unspecified amount; and requiring reversal and remittal for determination by trial court of amount, manner and time for payment of restitution).</p> <p>The request for restitution must be made before sentencing to be considered timely. <i>See</i> N.Y. Penal Law § 60.27(1) (requiring the district attorney to “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”); <i>see also People v. Kevin C.</i>, 697 N.Y.S.2d 217, 218 (N.Y. App. Div. 1999) (“Penal Law § 60.27(1) requires that the District Attorney ‘advise the court at or before the time of</p>

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
		sentencing that the victim seeks restitution or reparation’. There is no statutory authorization for modifying a judgment of conviction to include restitution or reparation after sentence has been imposed where the People failed to provide notice that they were seeking such restitution or reparation.”).
North Carolina	In North Carolina, restitution is governed by state constitution and statute. <i>See</i> N.C. Const. art. I, § 37(1a)(c) (guaranteeing victims of acts equivalent to person crimes or felony property crimes the right, <i>inter alia</i> , to “receive restitution in a reasonably timely manner, when ordered by the court”); N.C. Gen. Stat. Ann. § 14-43.20(b) (mandating restitution for victims of human trafficking); N.C. Gen. Stat. Ann. § 15A-1340.34(b) (“If the defendant is being sentenced for [an offense against the person or a felony property offense] 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 [N.C. Gen. Stat. Ann. § 15A-1343(d)] or a condition of post-release supervision as provided in [N.C. Gen. Stat. Ann. § 148-57.1].”); <i>see also</i> N.C. Gen. Stat. Ann. § 15A-	In North Carolina, the court must decide at sentencing whether to order the defendant to pay restitution. <i>See</i> N.C. Gen. Stat. Ann. § 15A-1340.34(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.”). The amount of restitution ordered must be based on evidence presented at trial or at sentencing. <i>State v. Moore</i> , 715 S.E.2d 847, 849 (N.C. 2011); <i>see also</i> N.C. Gen. Stat. Ann. § 15A-1340.36(a) (“The amount of restitution must be limited to that supported by the record[.]”); N.C. Gen. Stat. Ann. § 15A-833(a)(3) (affording victims the right to request restitution when providing an impact statement and requiring the court or jury to consider such requests at sentencing); N.C. Gen. Stat. Ann. § 15A-1340.35(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.”). Where

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
	<p>830(a)(7) (defining “victim” for the purposes of the Victims’ Rights Amendment as “[a] person against whom there is probable cause to believe an offense against the person or a felony property crime has been committed”); N.C. Gen. Stat. Ann. § 15A-830.5(b)(4) (“A victim has the . . . right to receive restitution in a reasonably timely manner, when ordered by the court.”); N.C. Gen. Stat. Ann. § 15A-834 (“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>For other crime victims, restitution is discretionary. <i>See</i> N.C. Gen. Stat. Ann. § 15A-1340.34(c) (“When [N.C. Gen. Stat. Ann. § 15A-1340.34(b)] 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>*For assistance with how to best argue for restitution in jurisdictions with mandatory and discretionary restitution laws, please contact NCVLI.</p>	<p>there is a conflict between the oral restitution order made at sentencing and a subsequent written order, the written order controls, as a modification of the earlier order. <i>State v. Buchanan</i>, 423 S.E.2d 819, 821 (N.C. Ct. App. 1992).</p> <p>Where the exact amount of restitution owed is uncertain at sentencing, the court may hold the issue of restitution open until the issue can be resolved at a follow-up hearing. <i>See, e.g., State v. Buchanan</i>, 818 S.E.2d 703, 707 (N.C. Ct. App. 2018) (noting that the sentencing court left issue of restitution open where the victim submitted a medical bill at the sentencing hearing, but it was unclear if the bill was up-to-date or whether a portion of the bill was covered by insurance, and held a follow-up hearing “to address the sole remaining issue of restitution”).</p> <p>When the court imposes a jail sentence, it must consider whether it will recommend to the Secretary of Public Safety that the defendant pay restitution out of any earnings gained on work-release and whether it will recommend to the Post-Release Supervision and Parole Commission that the defendant pay restitution as a condition of any parole or post-release supervision. N.C. Gen. Stat. Ann. § 15A-1340.36(c). The Secretary of Public Safety and the Post-Release Supervision and Parole Commission are not required to implement these recommendations; however, if they elect to not do so, they must state the basis of their decision in writing and forward it to the</p>

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
		sentencing court. N.C. Gen. Stat. Ann. §§ 148-33.2(b); 148-57.1(b).
North Dakota	<p>In North Dakota, restitution is mandated by state constitution and statute. <i>See</i> N.D. Const. art. I, § 25(1)(n) (granting crime victims “[t]he 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”); N.D. Cent. Code Ann. § 12.1-32-08(1) (“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.”). Together, the state’s constitutional and statutory restitution provisions mean that “a victim is entitled to be made whole through a reasonable restitution amount based on the entirety of his or her actual losses.” <i>State v. Kostelecky</i>, 906 N.W.2d 77, 79-80 (N.D. 2018).</p>	<p>Absent a waiver by the defendant, a North Dakota court must hold a hearing before imposing restitution as part of a sentence or condition of probation. <i>See</i> N.D. Cent. Code Ann. § 12.1-32-08(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.”); <i>State v. Nelson</i>, 872 N.W.2d 613, 615 (N.D. 2005) (finding that the court must hold a restitution hearing when a defendant enters a guilty plea and the amount of restitution is in dispute or uncertain); <i>State v. Clark</i>, 636 N.W.2d 660, 662 n.1 (N.D. 2001) (stating that a restitution hearing is not required when a defendant enters into a plea agreement that includes restitution).</p> <p>After the restitution hearing, “[a]n order that a defendant make restitution . . . 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. Upon thirty days’ written notice to the victim’s last known address, the court may order the judgment imposing a duty to pay restitution or reparation be docketed in the same manner as a civil</p>

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
		<p>judgment under section 29-26-22.1.” N.D. Cent. Code Ann. § 12.1-32-08(1); <i>see also</i> N.D. Cent. Code Ann. § 29-26-22.1 (“The court, within ten years of the date of entry of a judgment that . . . imposes a requirement that restitution . . . be paid . . . , may order the judgment to be docketed by the clerk of court in the judgment docket maintained pursuant to section 28-20-13 in the same manner in which a civil judgment for money is docketed. The docketing of the judgment has the same effect as the docketing of a civil judgment. . . . The court may direct a judgment be entered in favor of a person to whom restitution . . . is ordered to be paid.”).</p> <p>The statute governing restitution hearings does not require the restitution hearing to be held prior to a sentencing hearing. <i>State v. Kensmoe</i>, 636 N.W.2d 183, 186 (N.D. 2001); <i>see also State v. Sanchez</i>, 919 N.W.2d 188, 190 (N.D. 2018) (“A district court may retain jurisdiction to address restitution after a sentence is imposed.”). The court may hold restitution open for a set amount of time to retain jurisdiction on any unresolved restitution issues. <i>See, e.g., State v. Rogers</i>, 919 N.W.2d 193, 205 (N.D. 2018) (finding court retained jurisdiction on unresolved restitution issue, where court left restitution open for 90 days and conducted a restitution hearing within the 90-day period); <i>State v. Hatlewick</i>, 700 N.W.2d 717, 722-23 (N.D. 2005) (finding restitution jurisdiction was retained even after defendant filed notice of appeal from his</p>

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
		<p>criminal judgment, where court reserved the right to hold restitution open for 60 days); <i>see also Sanchez</i>, 919 N.W.2d at 190 (finding trial court could extend its own 30-day deadline for conducting a restitution hearing because the deadline was not imposed by statute or rule and defendant did not claim prejudice from the extension).</p>
Ohio	<p>In Ohio, restitution is mandated by state constitution and, for certain crime victims, by state statutory provisions. <i>See</i> Ohio Const. art. I, § 10a(A)(7) (guaranteeing victims the right “to full and timely restitution from the person who committed the criminal offense or delinquent act against the victim”); Ohio Rev. Code Ann. § 2921.41(C)(2)(a) (mandating restitution for victims of theft of office); Ohio Rev. Code Ann. § 2929.18(B)(8)(a) (mandating restitution for victims of enumerated crimes, including kidnapping, abduction, child pornography, and human trafficking); <i>see also</i> Ohio Rev. Code Ann. § 2929.11(A) (stating that the sentencing court must consider, <i>inter alia</i>, the need for making restitution to the victim of a felony). Other restitution statutes use discretionary language. <i>See, e.g.</i>, Ohio Rev. Code Ann. § 2929.18(A)(1) (providing that the court may order restitution when imposing a felony sentence); Ohio Rev. Code Ann. § 2929.28(A)(1) (providing that the court may order restitution when imposing</p>	<p>Ohio courts must order restitution at sentencing. When a court imposes restitution in felony cases, it must “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.” Ohio Rev. Code Ann. § 2929.18(A)(1). In misdemeanor cases that do not involve minor misdemeanors or that cannot be resolved by the traffic violations bureau, the court must “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.” Ohio Rev. Code Ann. § 2929.28(A)(1). In either type of case, the court must determine the amount of restitution to be paid by the offender and hold a restitution hearing if the offender, victim, or the victim’s survivor disputes the amount. Ohio Rev. Code Ann. §§ 2929.18(A)(1), 2929.28(A)(1).</p>

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
	<p>a misdemeanor sentence, where the misdemeanor is neither minor nor one that could be disposed of by the traffic violations bureau); <i>see also State v. Burns</i>, 976 N.E.2d 969, 975 (Ohio Ct. App. 2012) (stating that unlike “the theft in office statute [Ohio Rev. Code § 2921.41(C)(2)(a)], the general restitution statute, [Ohio Rev. Code § 2919.18(A)], does not contain a provision mandating restitution, but rather leaves the award of financial sanctions to the court’s discretion as indicated by the use of the word ‘may’ not ‘must’”).</p> <p>Ohio courts have yet to reconcile the mandatory nature of restitution under the state constitution and the discretionary nature of restitution under state statutory provisions. <i>See State v. Queen</i>, No. 8-19-41, 2020 WL 878542, at *3 n.1 (Ohio Ct. App. Feb. 24, 2020) (slip copy) (noting that “[i]t is not clear how the language of Marsy’s Law [Ohio Const. art. I, § 10a], which appears to give a victim the right to restitution interacts with [Ohio Rev. Code § 2929.18(A)(1), which gives trial courts the option to impose restitution in felony cases] and [Ohio Rev. Code § 2929.19(B)(5), which gives defendants the right to have the sentencing court consider their ability to pay before ordering restitution].”).</p> <p>*For assistance with how to best argue for restitution in jurisdictions with mandatory and discretionary restitution</p>	

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
	laws, please contact NCVLI.	
Oklahoma	<p>In Oklahoma, restitution is mandated by state constitution and statute. <i>See, e.g.</i>, Okla. Const. art. 2, § 34(A) (affording victims, <i>inter alia</i>, the right “to full and timely restitution”); Okla. Stat. Ann. tit. 21, § 142A-2(A)(5) (affording victims the right “[t]o be informed of the procedure to be followed in order to apply for and receive any restitution to which the victim is entitled”); Okla. Stat. Ann. tit. 22, § 991f(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>The district attorney’s office must provide all victims with an official restitution request form, Okla. Stat. Ann. tit. 22, § 991f(E)(3); the form must be presented in all cases, regardless of whether the case is brought to trial, Okla. Stat. Ann. tit. 22, § 991f(E)(4). The victim’s “unexcused failure or refusal . . . 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</p>	<p>The district attorney’s office must present the victim’s restitution claim to the court at the time of conviction or as part of a written plea agreement. Okla. Stat. Ann. tit. 22, § 991f(E)(1). The court may set restitution at sentencing or “bifurcate the sentencing and defer the hearing or proceedings relating to the imposition of restitution as justice may require.” Okla. Stat. Ann. tit. 22, § 991f(J); <i>see also</i> Okla. Stat. Ann. tit. 22, § 991a-18(A)(3) (requiring the court to make a restitution determination at sentencing). Oklahoma law does not specify how long a restitution hearing may be deferred. If a court orders sentencing deferred subject to the defendant meeting certain conditions, restitution must be the first condition it considers prescribing. Okla. Stat. Ann. tit. 22, § 991c(A) (“Upon a verdict or plea of guilty or upon a plea of <i>nolo contendere</i>, but before a judgment of guilt, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings upon the specific conditions prescribed by the court not to exceed a seven-year period, except as authorized under subsection B of this section. The court shall first consider restitution among the various conditions it may prescribe.”).</p>

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
	amendment or alteration of the restitution order predicated on the undisclosed available information.” Okla. Stat. Ann. tit. 22, § 991f(H).	
Oregon	<p>In Oregon, restitution is mandated by state constitution and statute. <i>See, e.g.</i>, Or. Const., art I, § 42(1)(d) (guaranteeing crime victims “[t]he right to receive prompt restitution from the convicted criminal who caused the victim’s loss or injury”); Or. Rev. Stat. Ann. § 137.106(1)(a) (requiring the court, upon a showing by the district attorney that the victim suffered economic damages, to order defendant to “pay the victim restitution in a specific amount that equals the full amount of the victim’s economic damages as determined by the court”). Although Oregon’s restitution statute mandates victim restitution in “the full amount of the victim’s economic damages as determined by the court,” Or. Rev. Stat. Ann. § 137.106(1)(a), the constitutional right to “prompt restitution,” Or. Const., art. I, § 42(1)(d), does not “confer[] a substantive right to receive the ‘full amount’ of a victim’s economic damages[.]” <i>State v. Algeo</i>, 311 P.3d 865, 873 (Or. 2013) (en banc) (reserving for a future case the determination of whether the constitutional right to prompt restitution “is purely procedural or instead carries a substantive element and requires restitution in some amount or as measured by some standard”).</p>	<p>In cases where the defendant is convicted of a crime or violation that has resulted in economic damages, the district attorney must “investigate and present to the court, at the time of sentencing or within 90 days after the entry of the judgment, evidence of the nature and amount of the damages.” Or. Rev. Stat. Ann. § 137.106(1)(a). The court may extend this timeline for good cause. <i>Id.</i> A prosecutor’s “inattentiveness to the passage of time . . . does not constitute good cause” for these purposes. <i>State v. Taylor</i>, 455 P.3d 609, 614 (Or. Ct. App. 2019). A trial court may order restitution beyond this 90-day deadline to remedy the violation of a victim’s constitutional right to restitution. <i>See, e.g., State v. Gallegos</i>, --- P.3d ---, 302 Or. App. 145, 149 (Or. Ct. App. 2020) (indicating agreement with the state’s position that a trial court is authorized “to order restitution beyond the 90-day deadline to remedy the violation of a victim’s constitutional right”); <i>State v. Thompson</i>, 306 P.3d 731, 735 (Or. Ct. App. 2013) (noting that the right of a victim to receive restitution “is created by the Oregon Constitution,” which means that “the right of a victim to receive compensation is not ‘purely statutory’ because the statutory scheme itself does not create the right of a victim to receive prompt restitution”).</p>

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
		<p>At least ten days before the district attorney makes its presentation, it must provide the defendant with the names of any witnesses that may be called during the presentation and with copies of, or access to, any exhibits that will be used or introduced. Or. Rev. Stat. Ann. § 137.106(6)(a). Should the district attorney fail to meet this requirement, “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 [Or. Rev. Stat. Ann. § 137.106(1)].” Or. Rev. Stat. Ann. § 137.106(6)(b). Where 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.” Or. Rev. Stat. Ann. § 137.106(5).</p>
<p>Pennsylvania</p>	<p>In 2019, a proposed victims’ rights constitutional amendment that includes the right to full and timely restitution was submitted to the voters in Pennsylvania. However, the state supreme court has affirmed a lower court’s grant of a preliminary injunction preventing votes cast on the amendment from being tabulated and certified pending the outcome of a challenge to the proposed amendment. <i>See League of Women Voters of Pa. v. Boockvar</i>, 219 A.3d 594 (Pa. 2019) (per curiam).</p>	<p>Restitution is required to be ordered at the time the court enters the sentencing order. 18 Pa. Cons. Stat. § 1106(c)(2) (“At the time of sentencing the court shall specify the amount and method of restitution[.]”). Restitution “may be imposed either as a direct sentence or as a condition of parole. In either event, the order of restitution must be supported by the record.” <i>Commonwealth v. Valent</i>, 463 A.2d 1127, 1128 (Pa. Super. Ct. 1983).</p>

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
	<p>Restitution is also mandated by state statute. <i>See</i> 18 Pa. Cons. Stat. § 11.201(6) (“Victims of crime have the . . . right[] . . . [t]o 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.”); 18 Pa. Cons. Stat. § 1106(a) (“Upon conviction for any crime wherein . . . 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 . . . the victim suffered personal injury directly resulting from the crime, the offender shall be sentenced to make restitution in addition to the punishment prescribed therefor.”); 18 Pa. Cons. Stat. § 1106(c)(1) (“The court shall order full restitution[.]”); 18 Pa. Cons. Stat. § 1106(c)(2) (“At the time of sentencing the court shall specify the amount and method of restitution.”); 18 Pa. Cons. Stat. § 1106(c)(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</p>	

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
	<p>record for any change or amendment to any previous order.”); Pa. Cons. Stat. § 1106(c)(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.”); <i>Commonwealth v. Holmes</i>, 155 A.3d 69, 86 (Pa. Super. Ct. 2017) (“When a victim suffers injury to person or property, a sentencing court is mandated under Section 1106(a) to enter an order of restitution.”).</p>	
Rhode Island	<p>In Rhode Island, restitution is mandated by state constitution and, for certain crime victims, by statutory provisions. <i>See</i> R.I. Const. art. I, § 23 (“[A victim of crime] 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.”); 11 R.I. Gen. Laws Ann. § 11-67.1-10(a) (mandating restitution for victims of human trafficking); 12 R.I. Gen. Laws § 12-19-32.1 (mandating restitution for victims of the sale or delivery of stolen precious metals); 12 R.I. Gen. Laws Ann. § 12-28-3(a)(15) (“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 right] [t]o be informed by the prosecuting officer of the right to request that restitution be an element of the final</p>	<p>A court may order restitution at the time of sentencing. <i>See, e.g.</i>, 12 R.I. Gen. Laws Ann. § 12-19-32 (“In addition to or in lieu of any non-mandatory sanction imposed as part of a sentence or as a condition of probation.”). The defendant may request an “ability to pay hearing by filing the request of the court which imposed the original sentence.” <i>Id.</i> When a court orders restitution under this provision, “the court may order that [payment] shall be made through the administrative office of state courts which shall record all payments and pay the money to the person injured in accordance with the order or with any modification of the order; provided, in cases where the court determines that the defendant has the present ability to make full restitution, payment shall be made at the time of sentencing.” 12 R.I. Gen. Laws Ann. § 12-19-34(a)(1).</p>

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
	<p>disposition of a case.”); 12 R.I Gen. Laws Ann. § 12-28-2(2) (“In recognition of the responsibility of the community to the victims of crime, the general assembly declares its intent to ensure . . . [t]hat whenever possible they receive financial compensation for their injury or loss from the perpetrator of the crime[.]”); 12 R.I Gen. Laws Ann. § 12-28-5.1 (“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.”); <i>cf.</i> 12 R.I. Gen. Laws Ann. § 12-28-5(a) (mandating entry of a civil judgment against defendant convicted of a felony for losses the victim suffered as a result of defendant’s felonious conduct, not including felonies related to the operation of a motor vehicle).</p> <p>Some restitution provisions under state statute use discretionary language. <i>See, e.g.</i>, 12 R.I Gen. Laws Ann. § 12-19-32 (“In addition to or in lieu of any</p>	<p>In addition, pursuant to Rhode Island’s victims’ rights statute, a civil judgment in favor of a victim is automatically entered when the court orders “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[.]” 12 R.I. Gen. Laws Ann. § 12-28-5.1. If the defendant does not make restitution payments, as ordered, the amount of restitution, plus interest, and costs of suit (including reasonable attorney’s fees) are collectible using any means available for the collection of delinquent judgments in civil suits. <i>Id.</i></p>

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
	<p>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.”).</p> <p>*For assistance with how to best argue for restitution in jurisdictions with mandatory and discretionary restitution laws, please contact NCVLI.</p>	
South Carolina	<p>In South Carolina, restitution is mandated by state constitution and statute. <i>See</i> S.C. Const. art. I, § 24(A)(9) (guaranteeing victims the right to “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”); S.C. Code Ann. § 17-25-322(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 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.”); <i>see also</i> S.C. Code Ann, § 16-3-1550(G) (“The circuit and family court must address the issue of restitution as provided by statute.”).</p>	<p>When a victim wishes to receive restitution in South Carolina, the victim must, “within appropriate time limits set by the prosecuting agency or summary court judge, provide the prosecuting agency or summary court judge with an itemized list [of the victim’s financial losses]. . . . This information may be included in a written victim impact statement.” S.C. Code Ann. § 16-3-1515(B).</p> <p>Prior to ordering restitution, “the court must hold a hearing to determine the amount of restitution due the victim or victims of the defendant’s criminal acts,” unless “the defendant in open court agrees to the amount due.” S.C. Code Ann. § 17-25-322(A). “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” in connection with restitution hearings. <i>Id.</i> A restitution hearing is part of the sentencing proceeding for the purpose of evidentiary rules. <i>State v. Gullede</i>, 487 S.E.2d 590, 594 (S.C. 1997). The</p>

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
		<p>restitution hearing may take place after the sentencing hearing. <i>See, e.g., State v. Morgan</i>, 790 S.E.2d 27, 29 (S.C. Ct. App. 2016) (noting that the restitution hearing took place more than two months after sentencing); <i>State v. Jones</i>, No. 2013-000548, 2015 WL 7075411, at *1 (S.C. Ct. App. Nov. 12, 2015) (per curiam) (affirming restitution order where restitution hearing was held fifteen months after the initial sentencing hearing).</p> <p>At the restitution hearing, the court must “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.” S.C. Code Ann. § 17-25-322(C).</p>
South Dakota	In South Dakota, restitution is provided for by state constitution and statute. <i>See, e.g., S.D. Const. art. 6, § 29(14)</i> (guaranteeing the right of crime victims 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	South Dakota’s legislative scheme is “indicative of legislative intent to authorize courts to order restitution regardless of the form a particular sentence may take,” meaning that the court may order restitution whether or not the defendant will be incarcerated. <i>State v. Wolff</i> , 438 N.W.2d 199 (S.D.

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
	<p>provided by law for all losses suffered as a result of delinquent conduct”); S.D. Codified Laws § 23A-28-1 (“It is the policy of this state that restitution shall be made by each violator of the criminal laws to the victims of the violator’s criminal activities to the extent that the violator is reasonably able to do so.”); S.D. Codified Laws § 23A-28C-1(9) (granting victims the right 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>*For assistance with how to best argue for restitution in jurisdictions with mandatory and discretionary restitution laws, please contact NCVLI.</p>	<p>1989). Under S.D. Codified Laws §§ 22-6-1 and 22-6-2, courts are authorized in imposing sentence on a defendant who has been found guilty of a felony and of a misdemeanor, respectively, to order that defendant make restitution to any victim in accordance with the provisions of chapter 23A-28. <i>See also</i> S.D. Codified Laws § 23A-27-1 (stating, in imposing a sentence, that “the court shall enter restitution in accordance with chapter 23A-28”). Under chapter 23A-28, at sentencing, the defendant may be ordered to prepare a plan of restitution. S.D. Codified Laws § 23A-28-3. The plan of restitution “shall be submitted promptly to the court.” S.D. Codified Laws § 23A-28-4. 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 be reasonably able to make restitution” <i>Id.</i> This order “shall set forth . . . the names and specific amounts of restitution owed each victim.” S.D. Codified Laws § 23A-28-3. “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.” <i>Id.</i> The victim must be notified of the restitution plan. S.D. Codified Laws § 23A-28-6.</p>

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
Tennessee	<p>In Tennessee, restitution is provided for by state constitution and statute. Tenn. Const. art. I, § 35 (victim “shall be entitled” to the “right to restitution from the offender”); Tenn. Code. Ann. § 40-38-102(c) (“All victims of crime shall have the right to collect court-ordered restitution in the same manner as a civil judgment”); Tenn. Code. Ann. § 40-38-106 (as to victims of crimes involving offenses against property, victims shall have the right to “restitution ordered as a condition of probation or a suspended sentence or parole and the swift revocation of privileges for failure to make the ordered restitution”); Tenn. Code. Ann. § 40-35-304(b) (“A sentencing court may direct a defendant to make restitution to the victim of the offense as a condition of probation.”).</p>	<p>“The court shall specify at the time of the sentencing hearing the amount and time of payment of 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.” Tenn. Code. Ann. § 40-35-304(c). If the trial court orders probation and omits restitution as a condition of probation, it cannot modify the conditions of probation to include restitution once the order becomes final. <i>State v. Moore</i>, 814 S.W.2d 381 (Tenn. Crim. App. 1991). An order becomes final 30 days after its entry unless a timely notice of appeal or specified post-trial motion is filed. Tenn. R. App. Proc. 4(a), 4(c). However, if a trial court ordered restitution as a condition of probation but the judgment or probation order failed to reflect it, then the trial court maintains power to modify such judgment or order because of an “oversight or omission” subject to correction by the trial court pursuant to Tenn. R. Crim. Proc. 36. Under Tenn. R. Crim. Proc. 36.1, either the defendant or the state may seek to correct an “illegal sentence.” It does not appear that this rule has been applied yet in the context of restitution. Note that the Constitutional amendment establishing the right to</p>

JURISDICTION	RIGHT TO RESTITUTION	TIMELINE FOR ENTRY OF INITIAL RESTITUTION ORDER
		restitution was approved in 1998, after the case law cited above.
Texas	<p>In Texas, restitution is mandated by state constitution and for some victims, by statute. Tex. Const. art. I, § 30(b)(4) (“On the request of a crime victim, the crime victim has the . . . right to restitution[.]”); Tex. Code Crim. Proc. Ann. art. 42.037(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”); Tex. Code Crim. Proc. Ann. art. 42.0373(a)-(b) (mandating restitution for child-victims/witnesses of certain crimes of family violence); Tex. Code Crim. Proc. Ann. art. 42.0372(a) (mandating restitution for child-victims of trafficking of persons or compelling prostitution); Tex. Code Crim. Proc. Ann. art. 42.0371(a) (mandating restitution for child-victims of kidnapping or abduction).</p> <p>*For assistance with how to best argue for restitution in jurisdictions with mandatory and discretionary restitution laws, please contact NCVLI.</p>	<p>As part of sentencing, the court is required to enter an order of restitution if requested by the victim. Tex. Const. art. I, § 30(b)(4). Despite the constitutional requirement to order restitution if the victim so requests, Texas courts have repeatedly held that “[a]n order of restitution must be included in the oral pronouncement [of sentence] to be valid.” <i>Sauceda v. State</i>, 309 S.W.3d 767, 769 (Tex. Ct. App. 2010) (holding that the trial court’s failure to include a restitution order in the oral pronouncement of sentence precluded it from entering order for restitution against defendant); <i>see also Alexander v. State</i>, 301 S.W.3d 361, 363 (Tex. Ct. App. 2009) (explaining that “[a] trial court’s pronouncement of sentence is oral, while the judgment, including the sentence assessed, is merely the written declaration and embodiment of that oral pronouncement[.]” and holding that because the trial court did not include restitution in its oral pronouncement, restitution was not properly included in the written judgment). <i>But see Manning v. State</i>, No. 05-06-00422-CR, 2007 WL 2069623, at *1 (Tex. Ct. App. July 20, 2007) (holding that restitution is not part of the sentence so it does not have to be included in the oral pronouncement for the restitution order to be valid).</p>

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		Texas courts have further held that “[w]hen the oral pronouncement of sentence and the written judgment differ, the oral pronouncement controls.” <i>Alexander v. State</i> , 301 S.W.3d 361, 363 (Tex. Ct. App. 2009).
Utah	Under Utah statutory law, victims “may seek restitution or reparations, including medical costs,” as provided in Utah’s statutory scheme, and victims must be informed of this right. Utah Code Ann. § 77-37-3(1)(e); <i>see also</i> Utah Code Ann. § 76-3-201(4)(a) (“When a person is convicted of criminal activity that has resulted in pecuniary damages, in addition to any other sentence it may impose, the court shall order that the defendant make restitution to the victims, or for conduct for which the defendant has agreed to make restitution as part of a plea agreement”); Utah Code Ann. § 77-38a-302(1) (“When a defendant enters into a plea disposition or is convicted of criminal activity that has resulted in pecuniary damages . . . 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.”); Utah Code Ann. § 77-38a-302(5) (discussing the determinations of “complete restitution” and “court-ordered restitution”).	“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: (a) the names of all victims, including third parties, asserting claims for restitution; (b) the actual or estimated amount of restitution determined at that time; and (c) whether or not the defendant has agreed to pay the restitution specified as part of the plea disposition.” Utah. Code Ann. § 77-38a-202(1); <i>see also State v. Weeks</i> , 12 P.3d 110, 113 (Utah Ct. App. 2000) (stating that, in imposing sentence, the court is statutorily mandated to order restitution for a crime that has resulted in pecuniary damages, unless the court finds that restitution is inappropriate). “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.” Utah Code Ann. § 77-38a-302(5)(d)(i). If the defendant is placed on probation, the court “shall determine complete restitution and court-ordered restitution.” Utah Code Ann. § 77-38a-302(d)(ii)(A). The time period to do this may extend

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		<p>beyond one year of sentencing “upon a finding of good cause, but may not exceed the period of the probation term served by the defendant.” Utah Code Ann. § 77-38a-302(d)(ii)(B).</p> <p>If the defendant is committed to prison, and pecuniary damages have not been determined by the court within one year after sentencing, pecuniary damages may be determined by the Board of Pardons and Parole. Utah Code Ann. § 77-38a-302(d)(iii)(A). With limited exceptions, the Board of Pardon and Parole “shall make all orders of restitution within 60 days of expiration of the defendant’s sentence.” Utah Code Ann. § 77-27-6(2)(c). 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. Utah Code Ann. § 77-38-302(d)(iii)(B); <i>see also Berrett v. State</i>, 420 P.3d 140, 142 n.3 (Utah Ct. App. 2018) (stating that court-ordered restitution is a subset of complete restitution, and must be ordered at the time of sentencing or within one year of sentencing); <i>State v. Poole</i>, 359 P.3d 667, 672 (Utah Ct. App. 2015) (discussing the Board of Pardon and Parole being afforded “a period of time to order restitution after its jurisdiction over a defendant would otherwise have ended”).</p>
Vermont	Victims in Vermont have a statutory right to have the court consider restitution. 13 Vt. Stat. Ann.	In Vermont, restitution is a sentencing condition. <i>See, e.g., State v. Blake</i> , 174 A.3d 126, 132 (Vt.

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	<p>§ 7043(a)(1) (“Restitution shall be considered in every case in which a victim of a crime . . . has suffered a material loss.”); Vt. R. Crim. P. 32(g) (“In every case in which a victim has suffered a material loss, the court must determine the amount of restitution, if any, which the defendant must pay.”); <i>see also State v. Thomas</i>, 14 A.3d 961, 966 (Vt. 2010) (“Restitution is a right of the victim, not of the prosecution. . . . Irrespective of the prosecution’s wishes, the court is required to consider restitution in every case.”).</p>	<p>2017) (“[O]nce a court, exercising its reasonable discretion, finds that restitution is necessary, it must impose restitution—just as it must impose other sentencing conditions once it makes a finding that those conditions are necessary.”); <i>see also</i> 28 Vt. Stat. Ann. § 252(b)(6) (explicitly specifying that restitution may be a condition of a “sentence of probation”).</p> <p>“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.” 13 Vt. Stat. Ann. § 7043(c)(1); <i>see also</i> Vt. R. Crim. P. 32(g)(1) (“Unless the amount of restitution is agreed to by the parties, a restitution hearing must be held.”).</p> <p>There does not appear to be a statutory timeline for when, after sentencing, the restitution hearing must be held; rather, the schedule is court-imposed. <i>State v. Gorton</i>, 90 A.3d 901, 904 (Vt. 2014) (finding that when the prosecutor missed a 30-day court-imposed deadline for requesting a hearing, it was proper for the court to allow the hearing to go forward based on Vermont’s statutory requirement that restitution be allowed in every case where a victim suffers a material loss).</p>
Virginia	Restitution in Virginia is provided for by state constitution and statute. <i>See, e.g.,</i> Va. Const. art. I, § 8-A(5) (providing that victims’ constitutional	“At the time of sentencing, the court shall determine the amount to be repaid by the defendant and the terms and conditions thereof.” Va. Code Ann. §19.2-

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	<p>rights include “[t]he right to restitution”); Va. Code Ann. §19.2-305.1 (addressing restitution for property damage or loss, with various sections directing “at least partial restitution” for certain offenses and others mandating restitution “for the full amount of damages” in connection with other specified offenses); <i>see also</i> Va. Code Ann. § 19.2-303 (“After conviction, whether with or without injury, the court may suspend imposition of sentence or suspend the sentence in whole or part and in addition may place the defendant on probation . . . or may, as a condition of a suspended sentence, require the defendant to make at least partial restitution to the aggrieved party or parties for damages or loss caused by the offense for which convicted”); Va. Code Ann. § 19.2-305 (addressing restitution as a condition of probation).</p>	<p>305.1(D). The findings underlying the restitution order must be included in the judgment order. <i>Id.</i> (stating that the court “shall include such findings in the judgment order”); <i>see also McCullough v. Commonwealth</i>, 568 S.E.2d 449, 451 (Va. Ct. App. 2002) (describing restitution as “[p]art of the sentencing phase of trial”); <i>Frazier v. Commonwealth</i>, 460 S.E.2d 608, 609 (Va. Ct. App. 1995) (describing restitution as “a well established sentencing component”); <i>Russnak v. Commonwealth</i>, 392 S.E.2d 491, 494 (Va. Ct. App. 1990) (stating that an order fixing the terms and conditions of restitution must be included in the sentencing order). Some case law suggests that the court can leave open the amount of restitution for a limited period when the amount of restitution has not yet been determined. <i>See Sugg v. Commonwealth</i>, No. 1625-13-1, 2014 WL 3579882, *1 (Va. Ct. App. July 22, 2014) (discussing the court’s jurisdiction in a case involving restitution proceedings set out for a period of time following sentencing).</p>
Washington	<p>A victim’s right to restitution in Washington is codified in statute. <i>See, e.g.</i>, Wash. Rev. Code § 7.69.030(15) (“With respect to victims and survivors of victims, [a right] 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</p>	<p>The court must determine the amount of restitution at sentencing, or within 180 days of sentencing unless good cause is shown. Wash. Rev. Code § 9.94A.753(1) (stating that, “[w]hen 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</p>

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	<p>make restitution inappropriate in the court’s judgment.”); Wash. Rev. Code § 9.94A.753(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>(7) of this section” and providing that the hearing may be continued beyond 180 days “for good cause”); <i>State v. Gray</i>, 280 P.3d 1110, 1113 (Wash. 2012) (“[A] court ordering restitution must issue its order within 180 days of sentencing. The time limit is mandatory unless extended for good cause.”). The exception to the 180-day rule with the good cause extension exists where a victim is entitled to benefits under the state victim compensation program; if the court does not order restitution within this time frame and the victim is entitled to benefits, 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. Wash. Rev. Code § 9.94A.753(7). Upon receipt of this petition, the court shall hold a restitution hearing and shall enter a restitution order. <i>Id.</i></p>
West Virginia	<p>The right to restitution in West Virginia is governed by statute. “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 to the greatest extent economically practicable when considering the defendant’s</p>	<p>Restitution is ordered at sentencing. <i>See</i> W. Va. Code § 61-11A-4(a) (“The court, when sentencing a defendant . . . shall order . . . that the defendant make restitution to any victim of the offense to the greatest extent economically practicable”); <i>State v. Lucas</i>, 496 S.E.2d 221, 223 (W. Va. 1997) (noting that a number of West Virginia statutes “establish that at the time of a convicted criminal defendant’s sentencing, a circuit court should ordinarily order the</p>

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	<p>financial circumstances. 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.” W. Va. Code § 61-11A-4(a).</p> <p>“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.” W. Va. Code § 61-11A-4(d); <i>see also</i> W. Va. Code § 61-11A-1(a), (b) (finding and declaring, <i>inter alia</i>, that “all too often the victim of a serious crime is forced to suffer . . . financial hardship”, that “the victim may lose valuable property to a criminal” and that “many times the property is damaged or lost,” and that “the purposes of this article are to enhance and protect the necessary role of crime victims . . . 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 . . . of crime without infringing on the constitutional rights of the defendant”).</p>	<p>defendant to make full restitution to any victims of the crime who have suffered injuries . . . unless the court determines that ordering such full restitution is impractical”).</p>
Wisconsin	<p>A victim’s right to restitution is governed by constitution and statute in Wisconsin. <i>See, e.g.</i>, Wis. Const. art. I, § 9m (providing, <i>inter alia</i>, that “[t]he state shall ensure that crime victims have all of the following privileges and protections as provided by law[,]” including “restitution”); Wis.</p>	<p>Restitution is generally imposed at sentencing. <i>See, e.g.</i>, Wis. Stat. Ann. § 973.70(1r) (“When imposing sentence or ordering probation for any crime . . . for which the defendant was convicted, the court . . . shall order the defendant to make full or partial restitution under this section to any victim of a crime</p>

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	<p>Stat. Ann. § 950.04(1v)(q) (guaranteeing victims of crime the right “[t]o restitution[,]” as provided under specific statutory provisions); Wis. Stat. Ann. § 973.20(1r) (mandating that “[w]hen imposing sentence or ordering probation for any crime, other than a crime involving conduct that constitutes domestic violence under [Wis. Stat. Ann. § 813.12(1)(a) or Wis. Stat. Ann. § 968.075(1)(a), which require an “undue hardship” finding to avoid an order of restitution], 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 reasons on the record”).</p>	<p>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.”).</p> <p>“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: (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 (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</p>

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		<p>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. . . .” Wis. Stat. Ann. § 973.20(13)(c).</p>
Wyoming	<p>Victims are entitled to restitution under Wyoming statute. <i>See, e.g.</i>, Wyo. Stat. Ann. § 14-6-502(a)(ii) (guaranteeing victims the right, <i>inter alia</i>, “to be provided information about the right to receive judicially ordered restitution”); Wyo. Stat. Ann. § 7-9-101(a)(iv) (defining restitution as “full or partial payment of pecuniary damage to a victim”); Wyo. Stat. Ann. § 7-9-102 (stating that the court “shall, upon conviction for any misdemeanor or felony, order a defendant to pay restitution to each victim . . . 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”); <i>Abeyta v. State</i>, 42 P.3d 1009, 1012 (Wyo. 2002) (“Section 7-9-102 requires that the trial court order a defendant to pay restitution to each victim unless the court specifically finds that the defendant has no ability to pay and no reasonable probability that he will have an ability to pay.”); <i>see also</i> Wyo. Stat. Ann. § 7-9-103 (addressing the determination of restitution); Wyo. Stat. Ann. §§ 7-9-113, 7-9-114</p>	<p>Wyoming law provides that the prosecutor, as part of the sentencing process—including for deferred prosecutions—“shall present to the court any claim for restitution submitted by any victim.” Wyo. Stat. Ann. § 7-9-103(a).</p> <p>The defendant’s plan of probation must be “submitted promptly” to the court. Wyo. Stat. Ann. § 7-9-105. “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” <i>Id.</i> 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 or conviction or in the order placing the defendant on probation” Wyo. Stat. Ann. § 7-9-103(b); <i>see also</i> Wyo. Stat. Ann. § 7-9-102 (providing for entry of the order “upon conviction”); <i>Whitten v. State</i>, 110 P.3d 892, 895 (Wyo. 2005) (“The exact amount of restitution and the proper</p>

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	(addressing the determination of restitution ordered for costs of long-term health care).	<p>victim entitled to receive restitution must be specified at the time of sentencing, not when the plea is accepted.”); <i>Van Riper v. State</i>, 999 P.2d 646, 648 (Wyo. 2000) (finding when the district court did not have sufficient information upon which to base a dollar amount for restitution that the state would not be given “a second chance by remanding for a determination of proper restitution amounts” and questioning whether such a remand might violate double jeopardy protections); <i>Kaess v. State</i>, 748 P.2d 698, 702 (Wyo. 1987) (“A sentence cannot be increased after it has been entered, nor may restitution be added at a later date.”).</p> <p>If restitution is ordered for the costs of long-term health care, the order “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.” Wyo. Stat. Ann. § 7-9-114(a); <i>see also Hodgins v. State</i>, 962 P.2d 153, 160 (Wyo. 1998) (affirming the propriety of a restitution order for the costs of the child-victim’s long-term care that required defendant to pay “the amount that his financial condition allows him to pay, providing for the contingency that he may be able to pay the \$2,116.66 per month in the future”).</p>

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