

Restitution Payment

An offender with a restitution order makes a payment to local court administration, which processes it and sends a check to the victim. The offender does not send payments directly to the victim. Victims should call court administration to confirm their address or to provide address changes since payments may take place over a long period of time.

Payment plans

In general, restitution is due when ordered, however, offenders have the opportunity to set up a payment plan, either through their probation officer or court administration. Victims can contact the offender's probation officer or court administration to find out about the payment schedule and amount. Payment plans typically take into account the offender's ability to pay. These installment payments may be low, and it may take years for the offender to pay the restitution in full.

Offenders on probation

Probation officers supervise offenders on probation and monitor them for compliance with their probation conditions, including paying restitution. If the offender is not being supervised, however, nobody is assigned to monitor the offender and ensure compliance with their probation conditions. This type of probation may be called administrative or court probation.

Offenders sentenced to serve time in prison

Offenders sentenced to serve time in a Minnesota Department of Corrections (DOC) facility (prison) do not have payment plans for restitution. However, the DOC has tools that allow restitution to be collected from offenders while they are incarcerated. The money collected is sent to court administration in the county where the offender was convicted, which processes it and sends a check to the victim.

Victims of offenders in prison can contact either court administration in the county where the offender was convicted or the Victim Services and Restorative Justice Program at the DOC (800-657-3830) to confirm that the restitution order in their case has been received at the DOC. When offenders are released from prison, they are typically placed on supervised release. A supervising agent monitors them for compliance with the conditions of their release, including paying restitution.

No longer on probation or under supervision

Offenders whose term of probation or supervised release has expired are no longer under the court's authority. While the restitution order is still valid, no one is responsible for

monitoring or encouraging the offender to pay restitution and the offender faces no consequences in the criminal case for failure to pay. One option at this stage is for the victim to have the restitution order docketed as a civil judgment

If the Offender Does Not Pay

The fact that restitution has been ordered by the court does not guarantee the offender will pay it.

If the offender has not paid restitution according to the payment plan and is on probation, a victim has the right to request a probation review hearing by contacting the prosecutor or probation officer. However, failure to pay restitution will not always result in a probation violation. In some jurisdictions, the court will not hold a probation violation hearing if the only violation is the failure to pay restitution.

If restitution has not been paid 60 days prior to the expiration of probation, the probation officer must request a hearing. At the hearing, the judge may extend the offender's probation to allow more time for repayment.

Other Options for Repayment

While the criminal justice system attempts to collect restitution from the offender, other options to recover restitution can be pursued as well.

Civil Judgment

Victims can try to collect restitution through civil court through a civil judgment. To get the restitution order "docketed," or entered as a civil judgment, the victim must file an Affidavit of Identification of Judgment Debtor along with a copy of the restitution order with court administration in the county where the offender was convicted. The civil judgment creates a lien (or hold) against the offender (the debtor) that will show up on credit checks and real estate title searches until the restitution is paid. An order of restitution docketed as a civil judgment does not expire until satisfied or otherwise discharged pursuant to a court order.

There is no filing fee to get the restitution order docketed for victims named in the order. Victims can request that the civil judgment be filed as a confidential document so that their information is not accessible to the public, including the offender.

Victims can use the tools available through the civil courts to collect on this judgment, for example, garnishing money from wages or bank accounts. Victims who do not know where the offender works or banks can contact court administration to file a Request for Order for Disclosure to obtain the offender's

financial information. A Writ of Execution, also obtained from court administration, is used to seize assets to repay the debt. The local sheriff executes the Writ of Execution. Some property may be seized in this way, but victims who want to use this process will need specific information on the asset, and many items are exempt from seizure. Additionally, filing fees and other costs are associated with this collection strategy. Consequently, victims must determine if the cost involved is greater than the benefit.

Referring restitution to the Minnesota Department of Revenue to collect

Offenders who have been ordered to pay restitution can either pay it in full or set up a payment plan. If they don't pay the full amount and they fail to make the scheduled payments, the restitution order may be referred to the Minnesota Department of Revenue (MDR) to collect. Restitution orders for offenders who are in prison are not sent to MDR.

Once MDR has a restitution order, it sends a bill to the offender, which includes a collection cost of up to 25 percent of the amount due. This cost is added to the total amount the offender owes and does not reduce the amount of restitution owed to the victim.

The offender can contact MDR to arrange payment. If this doesn't happen, MDR can use tools such as "revenue recapture" to collect. Through this process, money can be deducted from state and local funds owed to the offender, such as income and property tax refunds, renter's rebates, political contribution refunds, lottery winnings over \$1,000, and vendor/contract payments. In addition, MDR can issue a levy on a bank account, wages, or other income; revoke a business or professional license or permit; or seize the offender's property from their business or residence.

MDR can also file a lien (or hold) on property owned by the offender, which provides a way for MDR to seize real or personal property and may stop the offender from selling, transferring, or refinancing it. In addition, filing a lien allows MDR to try to collect outstanding restitution beyond the length of the criminal case.

Offender payments to MDR get applied proportionally to the unpaid restitution and unpaid collection costs. If the offender owes a tax debt to MDR, payments go toward that tax debt before restitution. MDR sends the collected restitution payment to the county where the restitution order was issued, and court administration processes it and sends a check to the victim.

MDR may send the restitution order back to the county if they determine that their collection methods are not likely to result in any payment from the offender.

Common Questions About Restitution

Does the offender make restitution payments directly to the victim?

No. Restitution payments are made to court administration. Court administration will then process the payment and mail a check to the victim, which may take several weeks.

How can I find out who is supervising the offender on probation or supervised release?

Contact the county probation or community corrections office for offenders on probation. The prosecutor's office that handled the case can refer you to the correct office. The Minnesota Department of Corrections Victim Services and Restorative Justice Program (800-657-3830) can provide supervising agent information for offenders released from prison and on supervised release.

Can the restitution order be changed to include additional unexpected losses?

The court can change or issue a restitution order after sentencing or disposition if (1) the offender is still under the authority of the court, (2) the victim has submitted sufficient evidence of the right to restitution, and (3) the true extent of the victim's losses were not known at the time of sentencing or disposition. In practice, however, it can be difficult to change an order, so victims are encouraged to identify their losses and submit their documentation before sentencing or disposition.

Does interest accrue on the restitution debt?

Interest does not accrue on restitution ordered in the criminal case. However, if the restitution order has been entered as a civil judgment, interest will be computed by court administration on the unpaid balance of the civil judgment and added to the balance until it is paid.

How do I find out how to docket an order as a civil judgment?

Information and forms related to docketing an order as a civil judgment as well as collecting on it are available from court administration or on the Minnesota Judicial Branch Website at www.mncourts.gov.

About Restitution

Restitution is the money a judge orders a juvenile or adult offender to pay to the victim as part of the disposition or criminal sentence to compensate them for their losses. It is based on the victim's losses resulting from the crime and the offender's ability to pay.

Examples of losses related to the crime may include funeral expenses; medical, dental, or therapy costs; lost wages; property losses; and the cost of repairing damaged property.

Although restitution may be part of a court-ordered disposition or sentence, victims are not guaranteed payment.

Collecting restitution can be a frustrating experience for victims who are attempting to recover emotionally, physically, and financially in the aftermath of a crime. This brochure is offered to explain the process for collecting restitution.

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08/26

COLLECTING COURT-ORDERED RESTITUTION



OFFICE OF JUSTICE PROGRAMS

MINNESOTA DEPARTMENT OF PUBLIC SAFETY