



A VICTIM'S GUIDE TO RESTITUTION IN NEW YORK STATE

A BROCHURE FOR
CRIME VICTIMS

This brochure is designed to help you understand the process of restitution and answer frequently asked questions.

The New York State
Office of Victim Services

1-800-247-8035

<http://www.ovs.ny.gov>

TTY: 1-888-289-9747

WHAT IS RESTITUTION?

Restitution is compensation paid to a victim by the perpetrator of a criminal offense for the losses or injuries incurred as a result of the criminal offense. It must be ordered by the Court at the time of sentencing, and is considered part of the sentence. Restitution may include, but is not limited to, reimbursement for medical bills, counseling expenses, loss of earnings and the replacement of stolen or damaged property.

Restitution is **NOT** for payment of damages for future losses, mental anguish or "pain and suffering".

When the District Attorney's (DA) office advises the Court that you have requested restitution or when the victim impact statement contained in the probation investigation report (pre-sentence, pre-plea or pre-disposition report) indicates that the victim seeks restitution, the Court must order restitution unless the interests of justice dictate otherwise. When the judge does not order restitution, the judge must clearly state his/her reasons on the record.

WHO IS ENTITLED TO RESTITUTION?

Anyone who has been the victim of a criminal offense and has suffered injuries, economic losses or damages can seek **restitution**. Many times, victims who deserve restitution do not request it. This can occur because victims are not aware that they are entitled to restitution, or do not know what steps to take to go about receiving the restitution they deserve.

HOW DO I ASK FOR RESTITUTION?

You should contact the DA's office and advise them of the extent of your injury, your out-of-pocket losses and the amount of damages you are requesting.

IT IS YOUR RESPONSIBILITY to give the police, DA and, upon request, the local probation department copies of the bills and other documents showing the extent of your injuries, your out-of-pocket losses and the amount of damages you want considered by the Court. Your claim for restitution will be included in any probation investigation report (pre-sentence, pre-plea or pre-disposition report). Be sure to:

- Keep accurate records such as original receipts of any expenses you have as a direct result of the criminal offense.
- Give copies of these receipts to the police, DA and local probation department.

You need to clearly explain your need for restitution as soon as possible to the DA, the victim/witness advocate, and the probation department. Plea agreements can occur within days of the actual criminal offense. If this information is not provided before the plea agreement and sentencing, you may have to pursue the perpetrator in Civil Court.

The DA is under an obligation to petition the Court to order restitution on your behalf.

In all felony criminal cases, many misdemeanor criminal cases and all juvenile delinquency and persons in need of supervision (PINS) cases, a pre-sentence or predisposition investigation report is required. The local probation department will contact you about the issue of restitution as it pertains to your case.

WHAT CAN I REQUEST AS RESTITUTION?

In requesting restitution, you can ask for any of the following:

- Medical expenses (doctors, physical therapists, ambulance, transportation, emergency services, etc.)
- Counseling expenses
- Loss of earnings
- Property expenses (replace, repair and/or clean damaged or stolen property)
- Funeral expenses
- Insurance deductible
- Incidental expenses (changing locks, towing fees, and the cost of changing your phone number)
- Any expense you incur as a result of the criminal offense

HOW IS RESTITUTION DETERMINED?

The amount of restitution is based on proof of your out-of-pocket losses incurred as a result of the criminal offense. The perpetrator has a right to object to the amount of restitution. The Court may hold a hearing on the issue of restitution where the Court may consider the perpetrator's ability to pay. The DA's office may contact you and ask you to testify at the restitution hearing. If you have a concern about appearing personally in Court, you should explore alternatives with the DA assigned to your case.

ARE MINORS ORDERED TO PAY RESTITUTION?

Minors can be ordered to pay restitution typically by the Family Court. However, restitution from juvenile delinquents is limited to \$1,500 and restitution from persons in need of supervision (PINS) is limited to \$1,000. These limitations may be per charge in the petition and may not represent the entire amount of restitution the judge may order. Additional restitution may be pursued civilly, under certain circumstances, against the parent or guardian of the minor.

WHEN CAN I EXPECT TO RECEIVE MY RESTITUTION MONEY?

Restitution payments are usually made to the local probation department by the perpetrator. In New York City, all restitution is referred to Safe Horizon for collection. Payments are based on the amount ordered and disbursed according to the schedule of payments in the restitution order. The appropriate restitution collection agency will then send a check to you accordingly.

You must furnish the restitution collection agency with your current address. **Always notify the restitution collection agency of your change of address.**

If the New York State Office of Victim Services has paid your bills, the Court may order that restitution payments be made to the Office for those paid items.

If you filed a claim with the New York State Office of Victim Services, it is important that you advise the Office if the Court orders the perpetrator to pay restitution.

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

- You may be eligible for compensation through the NYS Office of Victim Services, if you are the victim of a crime and have sustained a personal physical injury OR if you are a victim of a crime and did not sustain a physical injury AND you are elderly (aged 60 or over), disabled, or a child witness or victim (under the age of 18). Contact us at 1-800-247-8035 or on the Internet at www.ovs.ny.gov for an application.
- You can also file a civil lawsuit against your offender or a liable third party (e.g. if your landlord fails to supply sufficient lighting or other security measures) for recovery for your losses. If you decide to file a civil lawsuit, you will need to see an attorney who will explain your choices and advise you.
- If the crime occurred during the course of employment or arising out of employment, you may be eligible for workers' compensation benefits. The workers' compensation benefits you may be eligible to receive are: medical care, payment for lost wages, payment for permanent disability, rehabilitation or death benefits.
- If the crime is related to a vehicle, you may qualify for benefits under an automobile insurance policy.
- You may be eligible for compensation from other sources such as: mortgage insurance, homeowner's/renter's insurance, liability insurance, disability (private or state), veteran's benefits, social security benefits or a funeral/burial policy.