

Restitution in Virginia: A Guide for Crime Victims



INTRODUCTION

The goal of this brochure is to answer questions that victims of crime often have about restitution and to provide information and resources to assist with the restitution process. Restitution is one way of holding criminals accountable for their crimes. The Virginia Department of Criminal Justice Services worked with victim advocates, prosecutors, court staff, and others to develop this brochure for crime victims who have suffered financial loss due to crime.

If you have questions about any of the topics covered here or other questions about restitution, please contact your local Victim/Witness Assistance Program or the Commonwealth's Attorney's Office in your locality.



Virginia Department of Criminal Justice Services
www.dcjs.virginia.gov



What is restitution?

The purpose of restitution is to compensate or repay a crime victim for monetary loss due to a crime. Restitution is court-ordered by a judge. It is usually limited to payments for damages or losses directly caused by a crime. Whenever a defendant is ordered to pay restitution, any money collected by the court is used first to pay restitution before being used to pay fines, costs, or penalties.

How do I request restitution?

The judge will need information about your losses in order to determine the amount of court-ordered restitution. It is important to keep a record of all expenses related to the crime. ***Make sure you give this information to your local Victim/Witness Assistance Program or Commonwealth's Attorney's Office.*** It is your responsibility to provide copies of the bills and other documents showing the extent of your injuries, out-of-pocket losses, and any other damages you want the court to consider in ordering restitution. The information must be received as soon as possible, and prior to the trial date.

When do I request restitution?

Give your restitution information to your local Victim/Witness Assistance Program or Commonwealth's Attorney's Office, *as soon as possible*. Restitution might not be ordered if you do not provide the information prior to the trial date. It is important to stay in frequent contact with your Victim/Witness Assistance Program in order to follow all case developments and deadlines. To determine the date on which information is needed in your case, call the Victim/Witness Assistance Program or Commonwealth's Attorney's Office.

If restitution information is not provided in time, you may have to pursue your restitution request through a civil lawsuit. Regardless of whether or not restitution is court-ordered, you may also consult a private attorney regarding other legal remedies that may be available. Please ask the Victim/Witness Assistance Program staff as early as possible about which expenses can be part of a restitution request. This may help you to decide about pursuing a civil lawsuit or insurance settlement.

At the time of sentencing, the court is required to enter an Order of Restitution (DC-317) which includes:

- ♦ Amount of restitution to be repaid by the defendant
- ♦ Date by which all restitution is to be paid
- ♦ Terms and conditions of such repayment

You may request a free copy of the restitution order from the court clerk's office for your records.

Which expenses can be included?

Ultimately, the judge will determine what expenses will be considered and the amount of restitution to be awarded. The court may consider ordering restitution for medical/dental costs, reimbursement for an insurance deductible, funeral costs, lost or damaged property, stolen goods, and other out-of-pocket expenses resulting from the crime.

What are some helpful tips for documenting and collecting restitution?

- ♦ Keep your address and phone number up-to-date with the court clerk's office where the defendant was sentenced. *To efficiently update your record, the clerk's office will need the defendant's name.* Contact the clerk's office or your local Victim/Witness Assistance Program for more information about how to update your address information.
- ♦ Keep copies of your restitution related records because you may be called to testify if there are questions about restitution in your case.
- ♦ Keep a list of medical and other service providers you have seen for any crime related losses or injuries, including their mailing addresses and other contact information.
- ♦ Keep all bills, cost estimates, insurance benefit summaries, medical records, payment receipts and/or bank records in one central location, such as a binder or folder. The judge will often request this information when determining restitution amounts.
- ♦ Make sure, before you leave the courthouse, that you know who to contact if you do not receive restitution payment(s) as ordered by the judge.

Are there other sources of compensation?

In addition to court-ordered restitution, you may be eligible for compensation from other sources such as: the Virginia Victims Fund (VVF), mortgage insurance, medical insurance, hospital financial assistance, homeowner's/renter's insurance, liability insurance, disability insurance (private or state), veteran's benefits, social security benefits, or a funeral/burial policy.

If the crime is related to a vehicle, you may qualify for benefits under an automobile insurance policy and you can request restitution for any auto insurance deductible.

If the crime occurred during the course of employment, or arising out of employment, you may be eligible for workers' compensation benefits.





Should I agree to direct payments from the defendant?

Once restitution is court-ordered, you should accept restitution only in the manner ordered by the court.

How do I receive restitution payments, once they are ordered?

It is important to remember that restitution may be paid to you in installments, as allowed by court-order.

Court-ordered restitution must be paid by the defendant to the clerk of the court, by the due date specified in the court-order. However, you should not expect to receive your payment on the same date it is paid to the court. Once the clerk receives a payment, verification and processing activities will likely take 21 days or more to complete.

To ensure timely payment, it is very important to keep your address and phone number current with the clerk's office of the court where the trial occurred. If your check is returned to the clerk, or remains uncashed for one year or more, the clerk will submit the funds to the Virginia Victims Fund. In this case, getting those funds redirected back to you will take additional time.

What if my address changes before I receive all restitution payments?

In order to receive restitution payments, you must keep your address and phone number up-to-date with the clerk's office where the final sentencing of the defendant occurred. *To efficiently find and update your record, the clerk's office will need the defendant's full name.* Contact the clerk's office or your local Victim/Witness Assistance Program for more information about how to update your address information.

Is my address confidential?

Victim contact information is excluded from the copy of the Order of Restitution (DC-317) provided to the defendant. However, other court records, available to the public, may include your contact information.

As a victim of crime, you can take an additional step to request that certain information be kept confidential, in accordance with the law. Specifically, you can request that courts, police departments, sheriff's offices, commonwealth's attorneys, defense attorneys, and the Virginia Department of Corrections not disclose, except among themselves, your home address, phone number, or place of employment. To request confidentiality, you must file a Request for Confidentiality form (DC-301) and submit it to the clerk's office. Please ask the Victim/Witness Assistance Program or Commonwealth's Attorney's Office staff

if you have questions or need assistance. The form can be located on the Supreme Court of Virginia website: www.courts.state.va.us/forms/district/dc301.pdf

What are the consequences if a defendant fails to pay restitution?

If a defendant does not pay court-ordered restitution, his/her driver's license could be suspended, the debt could be sent to collections, the defendant may be required to go before a judge to explain why restitution has not been paid and the defendant could face jail time.

Should I file a claim with the Virginia Victims Fund (VVF) or request restitution through my criminal court case?

Defendants are often incarcerated and unable to pay their restitution, so you may want to consider filing a claim with the Virginia Victims Fund (VVF), in addition to requesting restitution. If a claim is eligible under VVF, then VVF can pay service providers directly and can assist in keeping your related bills out of collections. The VVF can seek restitution from the defendant for the amount it pays on your behalf. Discuss the best option for you with your local Victim/Witness Assistance Program staff. The following is a list of expenses that could be considered by the Virginia Victims Fund:

- ♦ Medical Expenses
- ♦ Funeral Expenses
- ♦ Lost Wages
- ♦ Prescriptions
- ♦ Crime-Scene Clean-Up
- ♦ Moving
- ♦ Temporary Housing
- ♦ Mileage
 - To medical appointments
 - To court-related appointments for child victims
- ♦ Loss of Support
 - From an offender removed from the home in domestic violence or child sexual-assault cases
 - Dependents of Homicide Victims
- ♦ Counseling
 - For direct victims
 - For children who witness domestic violence
 - For the immediate family of a homicide victim

Further information about the VVF, including benefits, deadlines, and eligibility requirements may be found online at: virginiavictimsfund.org



How is restitution connected to the Virginia Victims Fund (VVF)?

If you completed an application with the Virginia Victims Fund (VVF; sometimes referred to as the Criminal Injuries Compensation Fund (CICF)), please note that the amount awarded, as of the sentencing date, can be included in the Restitution Order. Please let the Commonwealth's Attorney's Office and/or Victim/Witness Assistance Program staff know that you have filed a VVF claim and the status of the claim prior to the trial date.

When restitution is ordered to a victim that cannot be located, any restitution collected becomes unclaimed and is forwarded to the Virginia Victims Fund (VVF). If you believe that restitution due to you may have gone unclaimed, you must contact the court clerk's office that was collecting the restitution and provide your updated address and the name of the defendant(s). The court will then send an Unclaimed Restitution Repayment Form to VVF directing VVF to make payment to you.

What if the defendant is in jail or prison?

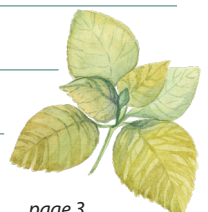
Restitution payments often will not begin until the defendant is released from jail or prison. Once the defendant is released, payments may be made as required by a court-ordered payment plan.

You may wish to review the defendant's restitution order with the Victim/Witness Assistance Program or Commonwealth's Attorney's Office staff to find out about when to expect payments and who to contact in case of problems.

What if the defendant is on probation?

When a defendant is court-ordered to pay restitution and is placed on supervised probation by the judge, the defendant is required to pay restitution to the clerk's office. If you have questions about restitution or if you do not receive payments in accordance with the Restitution Order, please let the Victim/Witness Assistance Program or Commonwealth's Attorney's Office staff know that you have not received your restitution. Please note the due date for the restitution, because the court cannot take action until after the court-ordered due date.

NOTES

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HELPFUL RESOURCES

COURT location and contact information:

www.courts.state.va.us/courts/home.html

COMMONWEALTH'S ATTORNEY location and contact information:

www.cas.state.va.us/attorney-search

VICTIM/WITNESS ASSISTANCE PROGRAMS directory:

www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/victims/virginia-victim-assistance-directory.pdf

For **information**, **assistance**, and **referrals**, please call these statewide toll-free numbers.



Virginia Victim Assist Helpline

1-855-4-HELP-VA (855-443-5782)

(Hours of operation: Monday – Friday, 9 am–5:00 pm)

<http://vanetwork.org>



Virginia Information and Notification Everyday (VINE)

1-800-467-4943

www.vinelink.com



Virginia Department of Corrections Victim Services Program

1-800-560-4292

(Hours of operation: Monday – Friday, 8:30 am–5:00 pm)

www.vadoc.virginia.gov/victim-services

email at: victimservices@vadoc.virginia.gov



Virginia Victims Fund

1-800-552-4007

<http://virginiavictimsfund.org>



Virginia Workers' Compensation Commission

1-877-664-2566

www.workcomp.virginia.gov



ADDITIONAL INFORMATION and ASSISTANCE IN YOUR CASE

To receive further information and assistance regarding restitution in your case, please contact your local Victim/Witness Assistance Program.

The local contact information:

The name, address, and telephone number of the clerk's office:

The name, address, and telephone number of the
Commonwealth's Attorney's Office: