

RESTITUTION JUDGMENT AND INSTRUCTIONS FOR OBTAINING PAYMENT

The following information is to advise you of your legal rights and contact information to assist you in receiving restitution from the offender. Crime victims in Alaska have a constitutional right to restitution from the offender. Alaska Const., Art. I, sec. 24. Once a restitution order is granted by the court, there are multiple ways it can be enforced.

ENFORCEMENT DURING PAROLE/PROBATION

If the court, when sentencing a defendant, suspends all or a portion of the defendant's sentence and places the defendant on probation, the defendant's compliance with the order of restitution will be made a condition of the defendant's sentence during the period of probation. If the offender has been convicted of a felony crime, and has been released on probation or parole, then the offender must report to a probation officer who will monitor the defendant's compliance with probation including the requirement to pay restitution. To contact the probation officer in an adult criminal matter, contact (907) 334-2300 in Anchorage or the Department of Corrections Victim Service Unit at (907) 269-7384 or go to <http://www.correct.state.ak.us/probationparole/victim-service-unit>.

A defendant convicted of a felony offense must also submit a completed sworn financial statement to the assigned probation officer within 30 days after conviction. The court form is CR-206 FINANCIAL STATEMENT. A copy of this form is online at <http://www.courts.alaska.gov/forms/index.htm>.

A defendant convicted of a misdemeanor offense must submit a completed sworn financial statement if he opposes the amount the state prosecutor requests the court to order the offender to pay for criminal restitution.

If the offender is able but fails to pay restitution as required, the prosecutor or probation officer (in felony cases) or the prosecutor (in misdemeanor cases) may file a petition to revoke the offender's probation. The court may order the offender to serve part or all of the suspended jail time and may revoke other suspended terms of the sentence. Probation may also be modified or extended. An offender's restitution judgment, including restitution balance due, is considered to be an enforceable, civil judgment. Civil judgments accrue interest by statute according to AS 09.30.070.

A crime victim who has received a court order granting restitution can either: 1) collect on their own, or 2) have the court collect on their behalf.

COLLECTING ON YOUR OWN

You may opt out of court collection and attempt to collect restitution yourself using a process known as "execution." This process allows you to pursue the defendant's wages, bank accounts, and other assets as well as the defendant's PFDs. You should carefully review the Judgment Creditor Booklet on the Alaska Court System website to become informed about the execution process, required forms, and potential costs involved in pursuing collections on your own behalf. Victims who choose to collect restitution themselves may receive interest on the restitution award and may be able to recover some of their collection costs. This is explained in the [Judgment Creditor Booklet](#).

If you wish to opt out of court collection, use the [TF-957 - Election to Opt-Out of Court Restitution Collections](#) form. If you do not submit this form, the Restitution Unit will automatically begin collection efforts against the defendant's PFDs on your behalf.

COURT COLLECTION

If you were the victim of a crime and the judge ordered the defendant to pay you restitution, the Alaska Court System's Restitution Unit will help you collect the money from the defendant's Permanent Fund Dividend (PFD). This is a free service. The Restitution Unit will attempt to collect money from the defendant's PFD every year until the restitution is paid in full. The court does not collect interest on the restitution award.

The Restitution Unit must have your current address to send you payments. To update your address, use the [TF-956 - Victim Notice of Change of Contact Information](#) form.

If you have any questions regarding restitution, contact the Restitution Unit in the Alaska Court System.

Restitution Unit
Alaska Court System
820 W. 4th Ave.
Anchorage, AK 99501
(907) 265-0195

CIVIL LITIGATION

To be made whole, crime victims may need to seek additional civil financial compensation from the offender. Not all types of damages may be addressed in criminal proceedings. For example, punitive damages, damages for pain and suffering, and future damages not anticipated or calculable at the time the criminal restitution order enters may will not be addressed in the criminal matter. A judge's criminal restitution order does not limit a crime victim's ability to obtain full compensation through the civil process. A crime victim may not, however, receive double damage awards from a defendant by filing for both criminal and civil judgments. For financial compensation through civil court proceedings, crime victims are encouraged to contact a private attorney for a consultation.

For a referral to a private civil attorney in your area, contact the Alaska Bar Association Lawyer Referral Service at (907) 272-0352 (in Anchorage) or at 1-800-770-9999 (toll-free within Alaska).

Alaska case law has established that, when a defendant is convicted of a crime after pleading no contest, the facts establishing the crime are proved beyond a reasonable doubt. *Lamb v. Anderson*, 126 P.3d 132 (Alaska 2005). Therefore, crime victims in civil litigation may file a copy of the criminal judgment to conclusively establish that the crime occurred that gave rise to the civil claim.

Certain time limits, called statutes of limitations, apply to create deadlines to file for small claims or other civil judgments. The statutes of limitations are often two years from the date the crime occurred but may be longer. Consultation with a private attorney can assist the crime victim to determine whether and when a time limit to file a civil suit will expire.

SMALL CLAIMS COURT

The crime victim also may seek a civil judgment for a debt by filing a small claims or other civil lawsuit without hiring a lawyer. To collect restitution in the amount of \$10,000 or less, excluding court costs and interest, the crime victim may file a small claims lawsuit. A packet with instructions and forms to file a small claims suit is available from the clerk of court at your local state court office. Instructions and forms for filing a small claims action also may be accessed at <http://www.courts.alaska.gov/forms/index.htm> on the Alaska Court System website. Again, for information to collect independently on a small claims judgment, see the following court publications: CIV-550 EXECUTION PROCEDURE JUDGMENT CREDITOR BOOKLET and CIV-503 INSTRUCTIONS ABOUT EXECUTING ON THE ALASKA PERMANENT FUND DIVIDEND.

These forms are available at your local court clerk's office and also online at the Alaska Court System website at: <http://www.courts.alaska.gov/forms/index.htm>

REMINDER: A small claims judgment is not required to establish a debt already ordered in a criminal restitution judgment. A civil judgment for the debt is already established when the court enters a criminal restitution order.

COURT ENFORCEMENT

These remedies do not limit the authority of the criminal court to enforce the criminal restitution order. The court may order the offender, on its own or upon request of the state prosecutor or probation officer, to submit financial information by requiring the defendant to complete under oath and file court form CR-206 FINANCIAL STATEMENT (available at <http://www.courts.alaska.gov/forms/index.htm>). The financial statement must be filed within five (5) days after the date of a court order to submit the financial statement and a copy of the statement must be provided to the prosecutor and probation officer, if any. The court may order the offender to make payment within a specified period of time. The court may also order the offender to make payment in specified installments. The court may modify the payment schedule based on the offender's ability to pay, but the court may not reduce the amount of restitution owed. If the offender fails to make one or more payments required by the court's specified deadline or specified installment plan, then each of the following may occur:

- The crime victim, and a prosecutor acting on behalf of the crime victim, may enforce the total amount remaining under the order of restitution.
- The court may order the defendant to appear in court and show cause why he should not be held in contempt for failing to pay restitution as ordered.
- The court can hold the defendant in contempt of court and fine or jail the defendant for failure to pay restitution (unless the defendant has failed to pay because he is unable despite continuing good faith efforts to make restitution).
- The prosecutor may petition the court to revoke the defendant's probation for failure to pay restitution as ordered; however, the defendant may not be imprisoned solely because he is unable to pay.
- The court may impose jail time at the rate of one day per \$50 of restitution owed, or one year, whichever is shorter, until the restitution order is satisfied.

The court may require the offender to make restitution by means other than the payment of money. Bail money may be used to pay the defendant's restitution. The defendant, or the person who posted the bail on behalf of the defendant, may complete and file court form CR-235 AUTHORIZATION FOR USE OF BAIL MONEY (available at <http://www.courts.alaska.gov/forms/index.htm>) so that bail posted may be applied to restitution. If the court orders bail posted by a defendant forfeited, the court must order the forfeited bail first to be applied to satisfy any criminal restitution order.

VIOLENT CRIMES COMPENSATION

If you are a victim of a violent crime, you may be entitled to separate financial assistance from the Violent Crimes Compensation Board (VCCB). For more information about applying for a financial award contact the VCCB at (907) 465-3040 or (800) 764-3040 (toll-free) or at <http://doa.alaska.gov/vccb/>

DOMESTIC VIOLENCE ASSISTANCE

If you are a victim of domestic violence, you may also be eligible for grant-funded financial assistance, for domestic violence victims statewide, through AWAIC, the domestic violence shelter in Anchorage. For more information contact AWAIC at (907) 279-9581 or www.awaic.org

RESTORATIVE JUSTICE ACCOUNT

In 2018, the Alaska Legislature passed a bill, which was later signed into law by the governor, that established the Restorative Justice Account (RJA) to aide crime victims. The purpose of the Restorative Justice Account, in part, is to provided restitution funds to victims who have not received court-ordered restitution from the defendant. The amount of money and the number of crime victims who can be helped by the RJA is dependent on the Alaska Legislature appropriating money each year to the RJA for this purpose. To be eligible for a possible payment from the RJA, crime victims must have a restitution judgment from the criminal case within the Alaska Court System that ordered the defendant to pay restitution to them. It is required that applying victims have a restitution judgment in the criminal case and that more than 1 year has passed since restitution was ordered without payment from the defendant.

Crime victims who have not received restitution from the defendant a year or more after the court ordered restitution, can submit their Request for Restitution Application to the OVR to receive RJA funds.

After applying to the OVR, OVR will verify the restitution amount and that no restitution payments have been made to the victim. If RJA funding is available, the OVR can direct payment of the outstanding restitution, up to \$10,000 per victim per case. The oldest restitution claims will be satisfied first with available funding. Applications through OVR for RJA funds will aid the legislature in knowing how much money is needed to help crime victims.