

# RESTITUTION STATUTE

## **18 Pa.C.S. § 1106. Restitution for injuries to person or property.**

### **(a) General rule.**--Upon conviction for any crime wherein:

(1) 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

(2) the victim, if an individual, suffered personal injury directly resulting from the crime, the offender shall be sentenced to make restitution in addition to the punishment prescribed therefor.

**(b) Condition of probation or parole.**--Whenever restitution has been ordered pursuant to subsection (a) and the offender has been placed on probation or parole, the offender's compliance with such order may be made a condition of such probation or parole.

### **(c) Mandatory restitution.**--

(1) The court shall order full restitution:

(i) Regardless of the current financial resources of the defendant, so as to provide the victim with the fullest compensation for the loss. The court shall not reduce a restitution award by any amount that the victim has received from the Crime Victim's Compensation Board or other government agency but shall order the defendant to pay any restitution ordered for loss previously compensated by the board to the Crime Victim's Compensation Fund or other designated account when the claim involves a government agency in addition to or in place of the board. The court shall not reduce a restitution award by any amount that the victim has received from an insurance company but shall order the defendant to pay any restitution ordered for loss previously compensated by an insurance company to the insurance company.

(ii) If restitution to more than one victim is set at the same time, the court shall set priorities of payment. However, when establishing priorities, the court shall order payment in the following order:

(A) Any individual.

(A.1) Any affected government agency.

(B) The Crime Victim's Compensation Board.

(C) Any other government agency which has provided reimbursement to the victim as a result of the defendant's criminal conduct.

(D) Any insurance company which has provided reimbursement to the victim as a result of the defendant's criminal conduct.

(E) Any estate or testamentary trust.

(F) Any business entity organized as a nonprofit or not-for-profit entity.

(G) Any other business entity.

(2) At the time of sentencing the court shall specify the amount and method of restitution. In determining the amount and method of restitution, the court:

(i) Shall consider the extent of injury suffered by the victim, the victim's request for restitution as presented to the district attorney in accordance with paragraph (4) and such other matters as it deems appropriate.

(ii) May order restitution in a lump sum, by monthly installments or according to such other schedule as it deems just.

(iii) Shall not order incarceration of a defendant for failure to pay restitution if the failure results from the offender's inability to pay.

(iv) Shall consider any other preexisting orders imposed on the defendant, including, but not limited to, orders imposed under this title or any other title.

(v) (Deleted by amendment).

(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 record for any change or amendment to any previous order.

(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. This recommendation shall be based upon information solicited by the district attorney and received from the victim.

(ii) Where the district attorney has solicited information from the victims as provided in subparagraph (i) and has received no response, the district attorney shall, based on other available information, make a recommendation to the court for restitution.

(iii) The district attorney may, as appropriate, recommend to the court that the restitution order be altered or amended as provided in paragraph (3).

**(d) Limitations on district justices.**--Restitution ordered by a magisterial district judge shall be limited to the return of the actual property or its undisputed dollar amount or, where the claim for restitution does not exceed the civil jurisdictional limit specified in 42 Pa.C.S. § 1515(a)(3) (relating to jurisdiction) and is disputed as to amount, the magisterial district judge shall determine and order the dollar amount of restitution to be made.

**(e) Restitution payments and records.**--Restitution, when ordered by a judge, shall be made by the offender to the probation section of the county in which he was convicted or to another agent designated by the county commissioners with the approval of the president judge of the county to collect restitution according to the order of the court or, when ordered by a magisterial district judge, shall be made to the magisterial district judge. The probation section or other agent designated by the county commissioners of the county with the approval of the president judge to collect restitution and the magisterial district judge shall maintain

records of the restitution order and its satisfaction and shall forward to the victim the property or payments made pursuant to the restitution order.

**(f) Noncompliance with restitution order.**--Whenever the offender shall fail to make restitution as provided in the order of a judge, the probation section or other agent designated by the county commissioners of the county with the approval of the president judge to collect restitution shall notify the court within 20 days of such failure. Whenever the offender shall fail to make restitution within 20 days to a magisterial district judge, as ordered, the magisterial district judge shall declare the offender in contempt and forward the case to the court of common pleas. Upon such notice of failure to make restitution, or upon receipt of the contempt decision from a magisterial district judge, the court shall order a hearing to determine if the offender is in contempt of court or has violated his probation or parole.

**(g) Preservation of private remedies.**--No judgment or order of restitution shall debar the victim, by appropriate action, to recover from the offender as otherwise provided by law, provided that any civil award shall be reduced by the amount paid under the criminal judgment.

**(h) Definitions.**--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

**"Affected government agency."** The Commonwealth, a political subdivision or local authority that has sustained injury to property.

**"Business entity."** A domestic or foreign:

- (1) business corporation;
- (2) nonprofit corporation;
- (3) general partnership;
- (4) limited partnership;
- (5) limited liability company;
- (6) unincorporated nonprofit association;
- (7) professional association; or
- (8) business trust, common law business trust or statutory trust.

**"Crime."** Any offense punishable under this title or by a magisterial district judge.

**"Injury to property."** Loss of real or personal property, including negotiable instruments, or decrease in its value, directly resulting from the crime.

**"Insurance company."** An entity that compensates a victim for loss under an insurance contract.

**"Insurance contract."** A contract governed by the insurance laws of the state in which it was issued or a plan of benefits sponsored by an employer or employee organization.

**"Offender."** Any person who has been found guilty of any crime.

**"Personal injury."** Actual bodily harm, including pregnancy, directly resulting from the crime.

**"Property."** Any real or personal property, including currency and negotiable instruments, of the victim.

**"Restitution."** The return of the property of the victim or payments in cash or the equivalent thereof pursuant to an order of the court.

**"Victim."** As defined in section 103 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act. The term includes an affected government agency, the Crime Victim's Compensation Fund, if compensation has been paid by the Crime Victim's Compensation Fund to the victim, any insurance company that has compensated the victim for loss under an insurance contract and any business entity.

(June 18, 1976, P.L.394, No.86, eff. 60 days; Apr. 28, 1978, P.L.202, No.53, eff. 60 days; May 3, 1995, 1st Sp.Sess., P.L.999, No.12, eff. 60 days; Dec. 3, 1998, P.L.933, No.121, eff. imd.; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Oct. 24, 2018, P.L.891, No.145, eff. imd.)

**2018 Amendment.** Act 145 amended subsecs. (a), (b), (c)(1), (g) and (h).

**2004 Amendment.** Act 207 amended subsecs. (d), (e) and (f) and the def. of "crime" in subsec. (h). See sections 28 and 29 of Act 207 in the appendix to this title for special provisions relating to applicability and construction of law.

**1998 Amendment.** Act 121 amended subsecs. (a), (c), (e) and (f).

**1995 Amendment.** Act 12, 1st Sp.Sess., amended subsec. (c) and the def. of "victim" in subsec. (h)

**1978 Amendment.** Act 53 amended subsecs. (d), (e), (f) and (h).

**1976 Amendment.** Act 86 added section 1106.

**Cross References.** Section 1106 is referred to in sections 910, 3020, 3926, 4116 of this title; sections 8316.1, 9728, 9738 of Title 42 (Judiciary and Judicial Procedure); section 6126 of Title 75 (Vehicles).