




RESTITUTION LAW ASSESSMENT TOOL

This *Restitution Law Assessment Tool (Tool)* is designed to aid a victim-centered assessment of a jurisdiction’s codified restitution laws. *Restitution Law & Practice: An Overview (Restitution Overview)* and *Restitution Law & Practice Guide for Legal Practitioners (Legal Practitioner Guide)* are two companion resources that directly address how restitution laws related to certain topics can work to support victims. Both of these resources are available in the [Victim Law Library](#) of the [National Crime Victim Law Institute \(NCVLI\)](#). Answering the questions below and consulting the companion resources will help identify strengths and weaknesses in a jurisdiction’s restitution laws.

This *Tool* is composed of a series of questions. You will be asked to review your jurisdiction’s restitution laws for certain information and to analyze relevant provisions in response to specific prompts. For a more detailed discussion of topics and additional examples of the types of restitution laws being discussed in the questions, please consult the relevant portion of the *Restitution Overview* identified after each question. You may type your answers and analysis directly into this *Tool*.

Throughout the *Tool*, select features of restitution laws that may enhance the likelihood of full financial recovery for crime victims are identified with a “ refers only to the victim-centered features contained within the text of a law. It does not refer to how the law operates in practice.¹ Once you have answered each of the questions, review how often your restitution laws did or did not fall within a  column. Any area that does not fall within a  column is an area in which to focus efforts to improve written law to support full restitution recovery potential for victims.

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¹ How a jurisdiction implements a law and how courts interpret a law will affect the ability of that law to support full recovery for victims; as this *Tool* analyzes the law as codified but not as interpreted, such analysis is outside the scope of this *Tool*.

INSTRUCTIONS FOR ANSWERING QUESTIONS

When completing Answers 2 through 23, please refer to the restitution laws that you have identified in [Answer 1](#). Each question may require review and analysis of multiple laws. The answer boxes following each question are designed as a space for you to record relevant laws. When answering each question, consider including the citations to the relevant laws to aid future analysis. If your restitution laws do not clearly answer one of the questions posed, make a note of that and move on to the next question.

QUESTIONS TO ASSESS RESTITUTION LAWS


1. Which bodies of law in your jurisdiction address restitution?

These laws will be referenced throughout this *Tool* and are what you need to analyze to answer the remaining questions. Consider making the citation a link to the text of these laws so that there is easy access for continued assessment. For information on this topic, please consult the *Restitution Overview* at Question 1 (“What state and federal laws address restitution?”).

Source of Restitution Law(s)	Citation(s)
Constitutional Victims’ Rights Law(s)	
Statutory Victims’ Rights Law(s)	
General Restitution Law(s)	
Crime-Specific Restitution Law(s)	

2. Is restitution required or do courts have discretion to decide whether to order restitution (*i.e.*, is restitution mandatory or permissive)?

For information on this topic, please consult the *Restitution Overview* at Question 2 (“Are courts required to order restitution?”).

Mandatory Restitution Law(s)		Permissive Restitution Law(s)

3. Is a prosecutor required to confer with a victim regarding restitution in all cases?

For information on this topic, please consult the *Restitution Overview* at Question 3 (“How and when do victims request restitution?”).

Conferral Required		Conferral Not Required


4. Does a victim have an express right to be heard regarding restitution in all cases?

For information on this topic, please consult the *Restitution Overview* at Question 3 (“How and when do victims request restitution?”).

Right to be Heard		No Right to be Heard

5. Is a victim authorized to request restitution independent of the prosecutor and/or through the prosecutor?

For information on this topic, please consult the *Restitution Overview* at Question 3 (“How and when do victims request restitution?”).

Victim May Request Independently <i>or</i> Through the Prosecutor		Victim Must Request Independently	Victim Must Request Through Prosecutor

6. Does a victim have an express right to assistance in preparing a restitution request?

For information on this topic, please consult the *Restitution Overview* at Question 3 (“How and when do victims request restitution?”) and at Question 4 (“What documentation or other evidence do victims need to support a restitution claim?”).

Right to Assistance		No Right to Assistance

7. Is a prosecutor required to confer with a victim about restitution before entering into a deferred prosecution agreement and/or another form of pretrial diversion?

For information on this topic, please consult the *Restitution Overview* at Question 5 (“How does a deferred prosecution agreement or a pretrial diversion program affect restitution?”).

Conferral is Required		Conferral is Not Required

8. Does a victim have an express right to be heard regarding restitution prior to the court’s approval of a deferred prosecution agreement or another form of pretrial diversion?

For information on this topic, please consult the *Restitution Overview* at Question 5 (“How does a deferred prosecution agreement or a pretrial diversion program affect restitution?”).

Right to be Heard		No Right to be Heard

9. Is restitution a required condition of a deferred prosecution agreement and/or another form of pretrial diversion?

For information on this topic, please consult the *Restitution Overview* at Question 5 (“How does a deferred prosecution agreement or a pretrial diversion program affect restitution?”).

Restitution is a Required Condition 	Restitution is Not a Required Condition

10. Is a prosecutor required to confer with victims about restitution before entering into a plea agreement?

For information on this topic, please consult the *Restitution Overview* at Question 6 (“How do plea agreements affect restitution?”).

Conferral is Required 	Conferral is Not Required

11. Does a victim have an express right to be heard regarding restitution prior to the court’s acceptance of a plea agreement?

For information on this topic, please consult the *Restitution Overview* at Question 6 (“How do plea agreements affect restitution?”).

Right to be Heard 	No Right to be Heard


12. Is restitution a required term of a plea agreement?

For information on this topic, please consult the *Restitution Overview* at Question 6 (“How do plea agreements affect restitution?”).

Restitution is a Required Term 	Restitution is Not a Required Term


13. Is the court required or authorized to order restitution when it is not a term of the plea agreement?

For information on this topic, please consult the *Restitution Overview* at Question 6 (“How do plea agreements affect restitution?”).

Court Must Order When Not a Term 	Court May Order When Not a Term	Court May Not Order When Not a Term


14. Is restitution authorized for the full amount of a victim’s losses or only for specific categories of loss?

For information on this topic, please consult the *Restitution Overview* at Question 8 (“What losses are compensable in restitution?”).

Full Amount 	Only Specific Categories of Loss



15. Is full restitution for a victim’s compensable losses required or is partial restitution authorized?

For information on this topic, please consult the *Restitution Overview* at Question 11 (“When must courts order full restitution and when can they order partial restitution?”).

Full Restitution Required		Partial Restitution Authorized

16. Is a victim authorized to challenge the total amount of restitution in a final restitution order, either independently or through the prosecutor?

For information on this topic, please consult the *Restitution Overview* at Question 15 (“When and why will courts modify the amount of a final restitution order?”).

Victim Authorized to Challenge Independently		Prosecutor Authorized to Challenge, Upon Victim’s Request		Victim Not Authorized to Challenge

17. Does a victim have an express right to be heard regarding modifications to a restitution order?

For information on this topic, please consult the *Restitution Overview* at Question 15 (“When and why will courts modify the amount of a final restitution order?”).

Right to be Heard		No Right to be Heard

18. Is a victim authorized to challenge the final restitution payment schedule, either independently or through the prosecutor?

For information on this topic, please consult the *Restitution Overview* at Question 16 (“When and why will courts modify a final restitution payment schedule?”).

Victim Authorized to Challenge Independently 	Prosecutors Authorized to Challenge, Upon Victim’s Request 	Victims Not Authorized to Challenge


19. Is a victim authorized to challenge the court’s failure to order restitution, either independently or through the prosecutor?

For information on this topic, please consult the *Restitution Overview* at Question 17 (“When and why can victims challenge a sentence or a final restitution order through a petition to compel enforcement of their restitution rights?”) and Question 18 (“When and why can a final restitution order be appealed?”).

Victim Authorized to Challenge Independently 	Prosecutor Authorized to Challenge, Upon Victim’s Request 	Victim Not Authorized to Challenge

20. Is a victim authorized to collect restitution, either independently and/or through the government?

For information on this topic, please consult the *Restitution Overview* at Question 19 (“Who collects restitution? How and when is restitution collected?”).

Victim Authorized to Collect Restitution Independently or Through the Government 	Only Government Authorized to Collect Restitution


21. Does a restitution order only expire once it is paid in full or does it expire after a set amount of time?

For information on this topic, please consult the *Restitution Overview* at Question 21 (“When does a restitution order expire?”).

Only Expires Once Paid in Full		Expires After a Set Amount of Time

22. Does a victim have an express right to notice of a defendant’s default on their restitution obligations?

For information on this topic, please consult the *Restitution Overview* at Question 22 (“What are the consequences of a defendant’s failure to pay restitution?”).

Right to Notice of Default		No Right to Notice of Default

23. Is a victim authorized to initiate a request to impose consequences on a defendant for their failure to pay restitution, either independently or through the prosecution?

For information on this topic, please consult the *Restitution Overview* at Question 22 (“What are the consequences of a defendant’s failure to pay restitution?”).

Victim Authorized to Initiate Request Independently		Prosecutor Authorized to Initiate Request, Upon Victim’s Request		Victim Not Authorized to Initiate Request