



**SURVEY OF SELECT STATE LAWS GOVERNING THE
AVAILABILITY OF RESTITUTION WHEN A DEFENDANT IS FOUND OR PLEADS
“GUILTY BUT INSANE” OR “GUILTY BUT MENTALLY ILL”**

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This survey explores how select states have addressed or are likely to address restitution when a defendant is found or pleads “guilty but insane” (GBI) or “guilty but mentally ill” (GBMI).¹ In general, a GBI verdict does not render a defendant criminally responsible; therefore, although a GBI verdict is not an acquittal, it does not constitute a “conviction” for the purposes of restitution. As such, defendants who are found or who plead GBI cannot be ordered to pay restitution; courts in Arizona and Oregon have reached this conclusion.² Maryland courts likewise lack authority to order restitution under its alternative to GBI, guilty but “not criminally responsible by reason of insanity,”³ because a defendant who is not criminally responsible cannot be subject to criminal punishment.⁴ On the other hand, jurisdictions that recognize a verdict of GBMI tend to provide that such a verdict does not absolve the defendant of criminal responsibility. Instead, such a verdict usually requires the court sentence the defendant in the same manner as they would a defendant convicted of the same offense without a finding of mental illness,⁵ with the exception of certain additional sentencing provisions related to the defendant’s mental health care and treatment. As a result, when a defendant is found or pleads GBMI, the court may order restitution as part of the defendant’s sentence; court decisions in Georgia, Illinois, Indiana, Kentucky, Michigan and Pennsylvania reflect this conclusion.⁶

In some jurisdictions, a person who falls within the legal definition of “insane” may be found “not guilty by reason of insanity” (NGRI).⁷ Such a finding does not result in a criminal conviction,⁸ which means that courts generally lack authority to order restitution in cases where a defendant has been found NGRI.⁹ State NGRI statutes and court decisions are outside the scope of this resource.

¹ Jurisdictions vary in how they articulate these verdicts. For instance, GBI may also be articulated as “guilty except insane” or “guilty except for insanity”; and GBMI may be articulated as “guilty with mental defect.”

² See, e.g., *State v. Heartfield*, 998 P.2d 1080, 1081–83 (Ariz. Ct. App. 2000); *State v. Thomas*, 69 P.3d 814, 814–15 (Or. Ct. App. 2003) (per curiam).

³ See Md. Code Ann., Crim. Proc. § 3-110(a) (stating that a defendant’s plea of “not criminally responsible” must allege, “in substance, that when the alleged crime was committed, the defendant was not criminally responsible by reason of insanity under the test for criminal responsibility in [Md. Code Ann., Crim. Proc.] § 3-109”); see also *id.* § 3-109(a) (providing that “[a] defendant is not criminally responsible for criminal conduct if, at the time of that conduct, the defendant, because of a mental disorder or mental retardation, lacks substantial capacity to: (1) appreciate the criminality of that conduct; or (2) conform that conduct to the requirements of law”).

⁴ *Pouncey v. State*, 465 A.2d 475, 478 (Md. 1983); *State v. Garnett*, 916 A.2d 393, 398–99 (Md. Ct. App. 2007).

⁵ See, e.g., Ga. Code Ann. § 17-7-131(g)(1); Ind. Code Ann. § 35-36-2-5(a); Mich. Comp. Laws Ann. § 768.36(3); Nev. Rev. Stat. Ann. § 176.057(1)(a); Okla. Stat. Ann. tit. 22, § 1161(A); 42 Pa. Stat. and Cons. Stat. Ann. § 9727(a); S.C. Code Ann. § 17-24-70.

⁶ See, e.g., *Eubanks v. State*, 399 S.E.2d 290, 292 (Ga. Ct. App. 1990); *People v. Morrison*, 64 N.E.3d 821, 822–23 (Ill. Ct. App. 2016); *People v. Boatright*, 486 N.E.2d 926, 927–28 (Ill. Ct. App. 1985); *Crawford v. State*, 770 N.E.2d 775, 782-783 (Ind. 2002); *Abney v. Com.*, No. 2003-CA-002637-MR, 2005 WL 3544255, at *1 (Ky. Ct. App. Dec. 29, 2005); *Jones v. Com.*, No. 2010-SC-000115-MR, 2010 WL 4683543, at *4 (Ky. Nov. 18, 2010) (recognizing); *Booker v. Com.*, No. 2008-CA-001441-MR, 2009 WL 2569151, at *1–2 (Ky. Ct. App. Aug. 21, 2009); *People v. Peach*, 437 N.W.2d 9, 11, 14 (Mich. Ct. App. 1989); *Com. v. Liebensperger*, 904 A.2d 40, 42 (Pa. Super. Ct. 2006).

⁷ See, e.g., 18 U.S.C. § 4242(b)(3); Ala. Code § 15-16-24; Colo. Rev. Stat. § 16-8-103(1)(a); Or. Rev. Stat. § 161.295(1).

⁸ See generally *State v. Tuomala*, 818 N.E.2d 272, 276 (Ohio 2004) (citing cases) (finding that “every jurisdiction that has addressed whether a verdict of not guilty by reason of insanity is a ‘conviction’ has answered that question in the negative”); see, e.g., *State v. Cook*, 226 So. 3d 387, 390 (La. 2017) (stating that “a finding of not guilty by reason of insanity is not tantamount to a conviction”).

⁹ A conviction is typically necessary for a court to order restitution. See, e.g., 18 U.S.C. § 3663A(a)(1); Conn. Gen. Stat. § 53a-28(c)(1); D.C. Code § 23-1901(b); 730 Ill. Comp. Stat. Ann. 5/5-5-6; N.J. Stat. Ann. § 2C:43-3. Exceptions to this general rule include deferred prosecution agreements and other forms of pretrial diversion that require the payment of restitution. See, e.g., Ky. Rev. Stat. Ann. § 532.032(2); Mich. Comp. Laws Ann. § 780.766(2); Miss. Code Ann. § 99-15-121.



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1130 SW Morrison St., Suite 200, Portland OR 97205

JURISDICTION	GBI/GBMI PROVISIONS	RESTITUTION PROVISIONS	CASE LAW	ANALYSIS
Alaska	Alaska Stat. Ann. § 12.47.030(a) (“A defendant is guilty but mentally ill if, when the defendant engaged in the criminal conduct, the defendant lacked, as a result of a mental disease or defect, the substantial capacity either to appreciate the wrongfulness of that conduct or to conform that conduct to the requirements of law. A defendant found guilty but mentally ill is not relieved of criminal responsibility for criminal conduct and is subject to the provisions of AS 12.47.050.”).	Alaska Const. art. I, § 24 (“Crime victims, as defined by law, shall have the following rights as provided by law: . . . the right to restitution from the accused. . .”). Alaska Stat. Ann. § 12.55.045(a) (“The court shall, when presented with credible evidence, unless the victim or other person expressly declines restitution, order a defendant convicted of an offense to make restitution as provided in this section, including restitution to the victim or other person injured by the offense, to a public, private, or private	<i>Lane v. Ballot</i> , 330 P.3d 338, 343 (Alaska 2014) (finding that a guilty but mentally ill plea does not relieve the defendant of criminal responsibility).	Alaska’s restitution statute directly provides courts with authority to order restitution in cases involving a plea or finding of guilty but mentally ill to the extent it requires courts to order restitution when a defendant is convicted of an offense and defines “conviction” to include a finding or entry of a plea of guilty but mentally ill. Alaska Stat. Ann. § 12.55.045(a), (o). State statutes and case law governing findings and/or pleas of guilty but mental ill further support the conclusion that restitution is available in such situations. <i>See</i> Alaska Stat. Ann. § 12.47.030(a)

	Alaska Stat. Ann. § 12.47.050(a) (“If the trier of fact finds that a defendant is guilty but mentally ill, the court shall sentence the defendant as provided by law and shall enter the verdict of guilty but mentally ill as part of the judgment.”).	nonprofit organization that has provided or is or will be providing counseling, medical, or shelter services to the victim or other person injured by the offense, or as otherwise authorized by law. . . .”) Alaska Stat. Ann. § 12.55.045(o)(1) (“In this section, ‘conviction’ means that the defendant has entered a plea of guilty, guilty but mentally ill, or nolo contendere, or has been found guilty or guilty but mentally ill by a court or jury”).		(stating that a defendant found guilty but mentally ill is not relieved of criminal responsibility); <i>Lane v. Ballot</i> , 330 P.3d 338, 343 (Alaska 2014) (same).
Arizona	Ariz. Rev. Stat. § 13-502(D) (“If the finder of fact finds the defendant guilty except insane, the court shall determine the sentence the defendant could have received pursuant to § 13-707 or § 13-751, subsection A or the presumptive sentence the defendant could have received pursuant to § 13-	Ariz. Const. art. II, § 2.1(A)(8) (“To preserve and protect victims’ rights to justice and due process, a victim of crime has a right: To receive prompt restitution from the person or persons convicted of the criminal conduct that caused the victim’s loss or injury.”).	<i>State v. Heartfield</i> , 998 P.2d 1080, 1081–83 (Ariz. Ct. App. 2000) (vacating a trial court’s post-conviction order requiring a defendant found guilty except insane to pay restitution to his victims on the ground that the trial court lacked authority to order a person who pleaded	Under Arizona case law, restitution is not available when a defendant enters a plea of guilty except insane. <i>See State v. Heartfield</i> , 998 P.2d 1080, 1081–83 (Ariz. Ct. App. 2000).

	<p>702, § 13-703, § 13-704, § 13-705, § 13-706, subsection A, § 13-710 or § 13-1406 if the defendant had not been found insane, and the judge shall suspend the sentence and shall order the defendant to be placed under the jurisdiction of the psychiatric security review board and committed to a secure state mental health facility under the department of health services pursuant to § 13-3992 for the length of that sentence. In making this determination the court shall not consider the sentence enhancements for prior convictions under § 13-703 or 13-704. The court shall expressly identify each act that the defendant committed and separately find whether each act involved the death or physical injury of or a substantial threat of death</p>	<p>Ariz. Rev. Stat. § 13-603(C) (“If a person is convicted of an offense, the court shall require the convicted person to make restitution to the person who is the victim of the crime or to the immediate family of the victim if the victim has died, in the full amount of the economic loss as determined by the court and in the manner as determined by the court or the court’s designee pursuant to chapter 8 of this title. . . .”).</p> <p>Ariz. Rev. Stat. § 13-804(A) (“On a defendant’s conviction for an offense causing economic loss to any person, the court, in its sole discretion, may order that all or any portion of the fine imposed be allocated as restitution to be paid by the defendant to any person who suffered an economic loss</p>	<p>guilty except insane to pay restitution because, <i>inter alia</i>, a finding of guilty except insane is not a conviction for purposes of restitution and that state law did not otherwise expressly or implicitly authorize restitution in such a situation).</p> <p><i>State v. Bomar</i>, 19 P.3d 613, 616 (Ariz. Ct. App. 2001) (“A finding of guilty-except-insane is not a criminal conviction.”).</p>	
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	<p>or physical injury to another person.”).</p> <p><i>See also</i> Ariz. Rev. Stat. § 13-502(E) (“A guilty except insane verdict is not a criminal conviction for sentencing enhancement purposes under § 13-703 [sentencing repeat offenders] or 13-704 [sentencing dangerous offenders].”).</p>	<p>caused by the defendant’s conduct.”).</p>		
Delaware	<p>Del. Code Ann. tit. 11, § 401(b) (“Where the trier of fact determines that, at the time of the conduct charged, a defendant suffered from a mental illness or serious mental disorder which substantially disturbed such person’s thinking, feeling or behavior and/or that such mental illness or serious mental disorder left such person with insufficient willpower to choose whether the person would do the act or refrain from doing it,</p>	<p>Del. Code Ann. tit. 11, § 4204(c)(9) (“Wherever a victim of crime suffers a monetary loss as a result of the defendant’s criminal conduct, the sentencing court shall impose as a special condition of the sentence that the defendant make payment of restitution to the victim in such amount as to make the victim whole, insofar as possible, for the loss sustained. Notwithstanding any law, rule or regulation to the</p>		<p>Although Delaware has not yet directly addressed the availability of restitution in cases where a defendant is found or pleads guilty but mentally ill, state statutes and court rules suggest that restitution is available in such instances. <i>See</i> Del. Code Ann. tit. 11, § 408(b) (providing that courts may sentence a defendant who has been found guilty but mentally ill or whose plea to that effect has been accepted in the same manner as a</p>

	<p>although physically capable, the trier of fact shall return a verdict of ‘guilty, but mentally ill.’”).</p> <p>Del. Code Ann. tit. 11, § 408(b) (“In a trial under this section a defendant found guilty but mentally ill, or whose plea to that effect is accepted, may have any sentence imposed which may lawfully be imposed upon any defendant for the same offense. . . .”).</p> <p>Del. Code Ann. tit. 11, § 409(a) (“A person who has been adjudged ‘guilty, but mentally ill’ and who during incarceration is discharged from treatment may be placed on prerelease or parole status under the same terms and laws applicable to any other offender. . . .”).</p>	<p>contrary, for the purposes of ensuring the payment of restitution the court shall retain jurisdiction over the offender until the amount of restitution ordered has been paid in full[.]”).</p> <p>Del. Code Ann. tit. 11, § 4101 (“(a) On conviction on indictment or information for any crime or offense, a defendant must pay all costs imposed by a court. (b)(1) When a court sentence includes . . . restitution, the full amount imposed becomes a judgement against the defendant immediately on sentencing. (2) A judgment under this subsection is executable, enforceable, or transferable by the State in the same manner as other judgments of the court. (3) If not paid promptly on its imposition or in accordance with the terms</p>		<p>defendant found guilty of the same offense); <i>id.</i> § 4204(c)(9) (authorizing restitution when victims suffer a monetary loss as a result of a defendant’s criminal conduct); Del. R. Super Ct. 11(i) (stating that a plea of guilty but mentally ill must be accepted when, <i>inter alia</i>, requirements applicable to a guilty plea are met, where one such requirement is that defendants be informed that they may be ordered to pay restitution).</p>
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	<p>Del. R. Super Ct. 11(i) (“A plea of guilty but mentally ill shall be accepted when the requirements of this rule applicable to a plea of guilty are met and the court finds that the defendant was mentally ill at the time of the offense, in accordance with 11 Del. C. § 408.”).</p> <p>Del. R. Super Ct. 11(c)(1) (“ . . . Before accepting a plea of guilty or nolo contendere to a felony or a class A misdemeanor, or to any other offense for which a sentence of imprisonment will be imposed, the court must address the defendant personally in open court and inform the defendant of, and determine that the defendant understands, the following: (1) . . . when applicable, that the court may also order the defendant to make restitution to any victim of the offense . . .”).</p>	<p>of the order of the court, or immediately if so requested by the State, the clerk or Prothonotary may cause the judgment to be entered on the civil judgment docket of the court. If a stay of execution is otherwise permitted by law, the stay may not be granted as a matter of right but only within the discretion of the court. (4) If the court imposing a sentence to pay . . . restitution does not have a civil docket for the entry of a judgment, then the court may immediately transfer the judgment to the civil judgment docket of an appropriate court, as determined by the court imposing the sentence. (5) Judgments docketed under this subsection are exempt from the provisions of § 4711 of Title 10, which mandate the expiration of judgments and require the renewal of judgments.”).</p>		
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<p>Georgia</p>	<p>Ga. Code Ann. § 17-7-131(b)(1) (“In all cases in which the defense of insanity, mental illness, or intellectual disability is interposed, the jury, or the court if tried by it, shall find whether the defendant is: . . . (D) Guilty but mentally ill at the time of the crime, but the finding of guilty but mentally ill shall be made only in felony cases. . . .”).</p> <p>Ga. Code Ann. § 17-7-131(g)(1) (“Whenever a defendant is found guilty but mentally ill at the time of a felony . . . or enters a plea to that effect that is accepted by the court, the court shall sentence him or her in the same manner as a defendant found guilty of the offense, except as otherwise provided in subsection (j) [limitation on imposition of death penalty] of this Code</p>	<p>Ga. Code Ann. § 17-14-3(a) (“Subject to the provisions of Code Section 17-14-10, notwithstanding the provisions contained in Chapter 11 of Title 15, and in addition to any other penalty imposed by law, a judge of any court of competent jurisdiction shall, in sentencing an offender, make a finding as to the amount of restitution due any victim, and order an offender to make full restitution to such victim.”).</p> <p>Ga. Code Ann. § 17-17-1(7) (“The General Assembly hereby finds and declares it to be the policy of this state that victims of crimes should be accorded certain basic rights just as the accused are accorded certain basic rights. These rights include: . . . [t]he right to restitution as provided by law[.]”).</p>	<p><i>Eubanks v. State</i>, 399 S.E.2d 290, 292 (Ga. Ct. App. 1990) (affirming the lower court’s decision to revoke defendant’s probation, where defendant, who had entered a plea of guilty but mentally ill, failed to make court-ordered restitution and committed an additional crime).</p>	<p>Although Georgia has not yet directly addressed the availability of restitution in cases where a defendant has been found or has pleaded guilty but mentally ill, state statute and case law suggest that restitution is available in such instances. <i>See</i> Ga. Code Ann. § 17-7-131(g)(1) (requiring courts to sentence defendants who have been found or who have pleaded guilty but mentally ill in the same manner as a defendant found guilty of the same offense); <i>id.</i> § 17-14-1(a) (requiring courts to order restitution when sentencing an offender); <i>see, e.g., Eubanks v. State</i>, 399 S.E.2d 290, 292 (Ga. Ct. App. 1990) (recognizing the availability of restitution in case involving a plea of guilty but mentally ill).</p>
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	<p>section. A defendant who is found guilty but mentally ill at the time of the felony or guilty but has intellectual disability shall be committed to an appropriate penal facility and shall be evaluated then treated, if indicated, within the limits of state funds appropriated therefor, in such manner as is psychiatrically indicated for his or her mental illness or intellectual disability.”).</p>			
<p>Illinois</p>	<p>730 Ill. Comp. Stat. Ann. 5/5-2-6(a) (“After a plea or verdict of guilty but mentally ill under Section 115-2, 115-3, or 115-4 of the Code of Criminal Procedure of 1963, the court shall order a presentence investigation and report pursuant to Sections 5-3-1 and 5-3-2 of this Act, and shall set a date for a sentencing hearing. The court may impose any sentence upon the defendant which</p>	<p>Ill. Const. art. I, § 8.1(a)(12) (“Crime victims, as defined by law, shall have . . . [t]he right to restitution[.]”).</p> <p>730 Ill. Comp. Stat. Ann. 5/5-5-6 (“In all convictions for offenses in violation of the Criminal Code of 1961 or the Criminal Code of 2012 or of Section 11-501 of the Illinois Vehicle Code in which the person received any injury to his</p>	<p><i>People v. Boatright</i>, 486 N.E.2d 926, 927–28 (Ill. Ct. App. 1985) (affirming the lower court’s decision, which included an order for restitution in a case where defendant was found guilty but mentally ill).</p> <p><i>People v. Morrison</i>, 64 N.E.3d 821, 823–27 (Ill. Ct. App. 2016) (affirming dismissal of defendant’s request for post-conviction relief in a case</p>	<p>Although Illinois has not yet directly addressed the availability of restitution in cases where a defendant has been found or has pleaded guilty but mentally ill, state statute and case law suggest that restitution is available in such instances. <i>See</i> 730 Ill. Comp. Stat. Ann. 5/5-2-6(a) (providing that courts may sentence a defendant who has been found guilty but mentally ill in the same manner as</p>

	<p>could be imposed pursuant to law upon a defendant who had been convicted of the same offense without a finding of mental illness.”).</p> <p>725 Ill. Comp. Stat. Ann. 5/115-2(b) (“Before or during trial a plea of guilty but mentally ill may be accepted by the court when: (1) the defendant has undergone an examination by a clinical psychologist or psychiatrist and has waived his right to trial; and (2) the judge has examined the psychiatric or psychological report or reports; and (3) the judge has held a hearing, at which either party may present evidence, on the issue of the defendant’s mental health and, at the conclusion of such hearing, is satisfied that there is a factual basis that the defendant was mentally ill at the time of</p>	<p>or her person or damage to his or her real or personal property as a result of the criminal act of the defendant, the court shall order restitution as provided in this Section. In all other cases, except cases in which restitution is required under this Section, the court must at the sentence hearing determine whether restitution is an appropriate sentence to be imposed on each defendant convicted of an offense. If the court determines that an order directing the offender to make restitution is appropriate, the offender may be sentenced to make restitution. The court may consider restitution an appropriate sentence to be imposed on each defendant convicted of an offense in addition to a sentence of imprisonment.”)</p>	<p>where defendant pleaded guilty but mentally ill and was ordered to pay restitution).</p> <p><i>People v. Harrison</i>, 877 N.E.2d 432, 437 (2007) (stating that Illinois courts have noted that a finding of guilty, but mentally ill is practically the same as a regular guilty verdict and does not relieve the defendant of criminal liability).</p>	<p>a defendant found guilty of the same offense without a finding of mental illness); 730 Ill. Comp. Stat. Ann. 5/5-5-6 (requiring restitution as a component of sentencing upon conviction for certain offenses); <i>see also</i> 725 Ill. Comp. Stat. Ann. 145/3 (authorizing victims to depose a defendant about their assets, obtain information and seek attachment against defendant’s property in cases where, <i>inter alia</i>, defendant was found guilty but mentally ill of first degree murder, Class X felonies or kidnapping); <i>see, e.g., People v. Morrison</i>, 64 N.E.3d 821, 822–23 (Ill. Ct. App. 2016) (recognizing the availability of restitution as a condition of probation in a case where defendant pleaded guilty but mentally ill); <i>People v. Boatright</i>, 486 N.E.2d</p>
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	<p>the offense to which the plea is entered.”).</p>	<p><i>See also</i> 725 Ill. Comp. Stat. Ann. 145/3 (“(a) Any person . . . who has been found . . . guilty but mentally ill of first degree murder, a Class X felony, or aggravated kidnapping, involving a victim as described in Section 2.3, or any other person who has reasonable grounds to know of any assets of the person . . . who has been found . . . guilty but mentally ill of first degree murder, a Class X felony, or aggravated kidnapping, may be deposed by the victim or the victim’s legal representative concerning those assets. (b) Upon written request of the victim, The Department of Corrections shall notify the victim of any assets of the person . . . found . . . guilty but mentally ill of first degree murder, a Class X felony, or aggravated kidnapping, known by the Department.</p>		<p>926, 927–28 (Ill. Ct. App. 1985) (recognizing the availability of restitution as a condition of probation in a case where defendant was found guilty but mentally ill).</p>
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		(c) The victim may seek attachment against the property of the person . . . found . . . guilty but mentally ill of first degree murder, a Class X felony, or aggravated kidnapping, against him or her.”).		
Indiana	Ind. Code Ann. § 35-36-2-5(a) (“Except as provided by subsection (e), whenever a defendant is found guilty but mentally ill at the time of the crime or enters a plea to that effect that is accepted by the court, the court shall sentence the defendant in the same manner as a defendant found guilty of the offense.”).	Ind. Code Ann. § 35-50-5-3(a) (“Except as provided in subsection (i), (j), (l), or (m), in addition to any sentence imposed under this article for a felony or misdemeanor, the court may, as a condition of probation or without placing the person on probation, order the person to make restitution to the victim of the crime, the victim’s estate, or the family of a victim who is deceased. . .”).	<i>Crawford v. State</i> , 770 N.E.2d 775, 782 (Ind. 2002) (affirming the trial court’s restitution order in a case where defendant was found guilty but mentally ill). <i>Carmony v. State</i> , 881 N.E.2d 98, at *3 (Ind. Ct. App. 2008) (table) (finding that the trial court did not err in ordering defendant, who pleaded guilty but mentally ill, to pay restitution).	Although Indiana has not yet directly addressed the availability of restitution in cases where a defendant has been found or has pleaded guilty but mentally ill, state statutes and case law suggest that restitution is available in such instances. <i>See</i> Ind. Code Ann. § 35-36-2-5(a) (requiring courts to sentence defendants who have been found or who have pleaded guilty but mentally ill in the same manner as a defendant found guilty of the offense); <i>id.</i> § 35-50-5-3(a) (authorizing restitution as a condition of probation or sentence); <i>see, e.g., Crawford v. State</i> , 770 N.E.2d 775,

				782 (Ind. 2002) (recognizing the availability of restitution in case involving a finding of guilty but mentally ill); <i>Carmony v. State</i> , 881 N.E.2d 98, at *3 (Ind. Ct. App. 2008) (table) (recognizing the availability of restitution in case involving a plea of guilty but mentally ill).
Kentucky	<p>Ky. Rev. Stat. Ann. § 504.120(4) (“In cases in which the defendant provides evidence at trial of his mental illness or insanity at the time of the offense, the jury or court may find the defendant: . . . Guilty but mentally ill at the time of the offense.”).</p> <p>Ky. Rev. Stat. Ann § 504.150(1) (“The court shall sentence a defendant found guilty but mentally ill at the time of the offense to the local jail or to the Department of Corrections in the same</p>	<p>Ky. Const. § 26A (affording crime victims “the right to full restitution to be paid by the convicted or adjudicated party in a manner to be determined by the court, except that in the case of a juvenile offender the court shall determine the amount and manner of paying the restitution taking into consideration the best interests of the juvenile offender and the victim.”).</p> <p>Ky. Rev. Stat. Ann. § 533.020(1) (“When a</p>	<p><i>Jones v. Com.</i>, No. 2010-SC-000115-MR, 2010 WL 4683543, at *4 (Ky. Nov. 18, 2010) (affirming trial court’s denial of defendant’s request to withdraw his guilty but mentally ill plea in a case in which defendant had made the plea and been required to pay restitution).</p> <p><i>Abney v. Com.</i>, No. 2003-CA-002637-MR, 2005 WL 3544255, at *1 (Ky. Ct. App. Dec. 29, 2005) (affirming rejection of defendant’s requests for post-conviction relief in</p>	<p>Although Kentucky has not yet directly addressed the availability of restitution in cases where a defendant has been found or has pleaded guilty but mentally ill, case law suggests that restitution is available in such instances. <i>See, e.g., Jones v. Com.</i>, No. 2010-SC-000115-MR, 2010 WL 4683543, at *4 (Ky. Nov. 18, 2010) (recognizing the availability of restitution in a case where defendant pleaded guilty but mentally ill); <i>Abney v. Com.</i>, No. 2003-CA-</p>

	<p>manner as a defendant found guilty. If the defendant is found guilty but mentally ill, treatment shall be provided the defendant until the treating professional determines that the treatment is no longer necessary or until expiration of his sentence, whichever occurs first.”).</p>	<p>person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court shall place him on probation if he is in need of the supervision, guidance, assistance, or direction that the probation service can provide. Conditions of probation shall be imposed as provided in KRS 533.030, but the court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of probation. When setting conditions under this subsection, the court shall not order any defendant to pay incarceration costs or any other cost permitted to be ordered under KRS 533.010 or</p>	<p>case in which defendant had pleaded guilty but mentally ill and agreed to pay restitution).</p> <p><i>Booker v. Com.</i>, No. 2008-CA-001441-MR, 2009 WL 2569151, at *1–2 (Ky. Ct. App. Aug. 21, 2009) (affirming defendant’s conviction, based upon a jury finding that he was guilty but mentally ill, and court-ordered restitution).</p>	<p>002637-MR, 2005 WL 3544255, at *1 (Ky. Ct. App. Dec. 29, 2005) (same); <i>Booker v. Com.</i>, No. 2008-CA-001441-MR, 2009 WL 2569151, at *1–2 (Ky. Ct. App. Aug. 21, 2009) (recognizing the availability of restitution in a case where a jury found defendant found guilty but mentally ill); <i>see also</i> Ky. Rev. Stat. Ann. § 504.150(1) (requiring courts to sentence defendants who have been found or who have pleaded guilty but mentally ill to jail or the Department of Corrections same manner as a defendant found guilty of the offense without a finding of mental illness).</p>
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		<p>other statute, except restitution and any costs owed to the Department of Corrections, through the circuit clerk.”).</p> <p>Ky. Rev. Stat. Ann. § 533.030(3) (“When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his or her property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or where the victim incurred expenses in relocating for the purpose of the victim’s safety or the safety of a member of the victim’s household, or if as a direct result of the</p>		
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		<p>crime the victim incurred medical expenses that were paid by the Cabinet for Health and Family Services, the Crime Victims Compensation Board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. . . .”).</p> <p><i>See also</i> Ky. Rev. Stat. Ann. § 532.033 (outlining the court’s responsibilities when ordering restitution).</p>		
Maryland	<p>Md. Code Ann., Crim. Proc. § 3-109(a) (“A defendant is not criminally responsible for criminal conduct if, at the time of that conduct, the defendant, because of a mental disorder or mental retardation, lacks substantial capacity to: (1) appreciate the</p>	<p>Md. Code Ann., Crim. Proc. § 11-603(a) (“A court may enter a judgment of restitution that orders a defendant or child respondent to make restitution in addition to any other penalty for the commission of a crime or delinquent act, if: (1) as a direct result of the crime</p>	<p><i>State v. Garnett</i>, 916 A.2d 393, 398–99 (Md. Ct. App. 2007) (holding that an affirmative finding that defendant was not criminally responsible by reason of insanity precluded imposition of sentence of restitution, even though the state’s victims’ rights</p>	<p>Under Maryland case law, a defendant cannot be ordered to pay restitution if they have been found guilty, but “not criminally responsible” by reason of insanity. <i>State v. Garnett</i>, 916 A.2d 393, 398–99 (Md. Ct. App. 2007); <i>Peterson v. State</i>, No.</p>

	<p>criminality of that conduct; or (2) conform that conduct to the requirements of law.”).</p> <p>Md. Code Ann., Crim. Proc. § 3-110(a) (“(1) If a defendant intends to rely on a plea of not criminally responsible, the defendant or defense counsel shall file a written plea alleging, in substance, that when the alleged crime was committed, the defendant was not criminally responsible by reason of insanity under the test for criminal responsibility in § 3-109 of this title. (2) A written plea of not criminally responsible by reason of insanity shall be filed at the time provided for initial pleading, unless, for good cause shown, the court allows the plea to be filed later.”).</p>	<p>or delinquent act, property of the victim was stolen, damaged, destroyed, converted, or unlawfully obtained, or its value substantially decreased;</p> <p>(2) as a direct result of the crime or delinquent act, the victim suffered: (i) actual medical, dental, hospital, counseling, funeral, or burial expenses or losses; (ii) direct out-of-pocket loss; (iii) loss of earnings; or (iv) expenses incurred with rehabilitation; (3) the victim incurred medical expenses that were paid by the Maryland Department of Health or any other governmental unit; (4) a governmental unit incurred expenses in removing, towing, transporting, preserving, storing, selling, or destroying an abandoned vehicle as defined in § 25-201 of the Transportation Article;</p>	<p>law expressly authorizes restitution in cases where a defendant has been found guilty “regardless of whether the defendant has been found criminally responsible”).</p> <p><i>Peterson v. State</i>, No. 2332, 2019 WL 328416, at *5 (Md. Ct. Spec. App. Jan. 24, 2019), <i>aff’d</i>, 467 Md. 713, 226 A.3d 246 (Md. 2020) (“A defendant convicted of a crime and then found [not criminally responsible] is . . . not subject to criminal punishment.”).</p> <p><i>Pouncey v. State</i>, 465 A.2d 475, 478 (Md. 1983) (holding that, “while her successful insanity defense means that she is not criminally responsible for her conduct, that determination merely relieves her of liability for punishment under the criminal law. No criminal sentence may</p>	<p>2332, 2019 WL 328416, at *5 (Md. Ct. Spec. App. Jan. 24, 2019), <i>aff’d</i>, 467 Md. 713, 226 A.3d 246 (Md. 2020); <i>Pouncey v. State</i>, 465 A.2d 475, 478 (Md. 1983).</p>
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		<p>(5) the Criminal Injuries Compensation Board paid benefits to a victim; or (6) the Maryland Department of Health or other governmental unit paid expenses incurred under Subtitle 1, Part II of this title. . . . (b) A victim is presumed to have a right to restitution under subsection (a) of this section if: (1) the victim or the State requests restitution; and (2) the court is presented with competent evidence of any item listed in subsection (a) of this section.”).</p> <p>Md. Code Ann., Crim. Proc. § 11-601(e) (providing that, for the purposes of the state’s restitution laws, “[d]efendant’ means a person: (1) who has received probation before judgment; (2) who has been found guilty of a crime, even if the defendant has been found</p>	<p>ever be entered on the guilty verdict in this case and the appellant, therefore, does not stand ‘convicted’ of the murder offense in the traditional sense of the criminal law”).</p>	
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		not criminally responsible; or (3) whose plea of nolo contendere to a crime has been accepted by the court.”).		
Michigan	<p>Mich. Comp. Laws Ann. § 6.303 (“Before accepting a plea of guilty but mentally ill, the court must comply with the requirements of MCR 6.302. In addition to establishing a factual basis for the plea pursuant to MCR 6.302(D)(1) or (D)(2)(b), the court must examine the psychiatric reports prepared and hold a hearing that establishes support for a finding that the defendant was mentally ill, at the time of the offense to which the plea is entered. The reports must be made a part of the record.”)</p> <p>Mich. Comp. Laws Ann. § 768.36(3) (“If a defendant is found guilty but mentally ill or enters a plea to that effect which</p>	<p>Mich. Const. art. I, § 24(1) (“Crime victims, as defined by law, shall have the following rights, as provided by law: . . . The right to restitution.”).</p> <p>Mich. Comp. Laws Ann. § 780.766(2) (“Except as provided in subsection (8), when sentencing a defendant convicted of a crime, the court shall order, in addition to or in lieu of any other penalty authorized by law or in addition to any other penalty required by law, that the defendant make full restitution to any victim of the defendant’s course of conduct that gives rise to the conviction or to the victim’s estate. For an offense that is resolved by assignment of the</p>	<p><i>People v. Peach</i>, 437 N.W.2d 9, 11, 14 (Mich. Ct. App. 1989) (rejecting defendant’s appeal as a matter of right where defendant had been found guilty but mentally ill and had been ordered to pay restitution).</p>	<p>Although Michigan has not yet directly addressed the availability of restitution in cases where a defendant has been found or has pleaded guilty but mentally ill, state statutes and case law suggest that restitution is available in such instances. <i>See</i>, Mich. Comp. Laws Ann. § 768.36(3) (requiring courts to sentence defendants who are found or have pleaded guilty but mentally ill in the same manner as a defendant found guilty of the same offense); <i>id.</i> § 780.766(2) (requiring restitution in felony cases); <i>see, e.g.</i>, <i>People v. Peach</i>, 437 N.W.2d 9, 11, 14 (Mich. Ct. App. 1989) (recognizing the availability of restitution</p>

	<p>is accepted by the court, the court shall impose any sentence that could be imposed by law upon a defendant who is convicted of the same offense. . . .”).</p>	<p>defendant to youthful trainee status, by a delayed sentence or deferred judgment of guilt, or in another way that is not an acquittal or unconditional dismissal, the court shall order the restitution required under this section.”).</p> <p>Mich. Comp. Laws § 780.752(b) and (d) (“Except as otherwise defined in this article, as used in this article: . . . ‘Crime’ means a violation of a penal law of this state for which the offender, upon conviction, may be punished by imprisonment for more than 1 year or an offense expressly designated by law as a felony. . . . ‘Defendant’ means a person charged with, convicted of, or found not guilty by reason of insanity of committing a crime against a victim.”).</p>		<p>in a case where defendant was found guilty but mentally ill).</p>
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<p>Nevada</p>	<p>Nev. Rev. Stat. Ann. § 174.035(1) (“A defendant may plead not guilty, guilty, guilty but mentally ill or, with the consent of the court, nolo contendere. The court may refuse to accept a plea of guilty or guilty but mentally ill. . . . A plea of guilty but mentally ill must be entered not less than 21 days before the date set for trial. A defendant who has entered a plea of guilty but mentally ill has the burden of establishing the defendant’s mental illness by a preponderance of the evidence. Except as otherwise provided by specific statute, a defendant who enters such a plea is subject to the same criminal, civil and administrative penalties and procedures as a defendant who pleads guilty.”).</p>	<p>Nev. Const. art. I, § 8A(1)(l) (affording victims the right “to full and timely restitution”).</p> <p>Nev. Rev. Stat. Ann. § 176.033(3) (“If a sentence of imprisonment is required or permitted by statute, the court shall: . . . If restitution is appropriate, set an amount of restitution for each victim of the offense and for expenses related to extradition in accordance with NRS 179.225.”).</p> <p>Nev. Rev. Stat. Ann. § 174.063(1) (“If a plea of guilty or guilty but mentally ill is made in a written plea agreement, the agreement must be substantially in the following form: . . . I understand that, if appropriate, I will be ordered to make restitution to the victim of the offenses to which I am pleading guilty or</p>		<p>Although Nevada has not yet directly addressed the availability of restitution in cases where a defendant has been found or has pleaded guilty but mentally ill, state statutes suggest restitution is available in such instances. <i>See</i> Nev. Rev. Stat. Ann. § 175.533(2) (requiring courts to sentence defendants who have been found guilty but mentally ill in the same manner as a defendant found guilty of the same offense); <i>id.</i> § 176.057(1) (same); <i>id.</i> § 174.063(1) (providing, as content of form for written plea agreement, that a defendant who pleads guilty but mentally ill must acknowledge that they may be ordered to make restitution to the victim of the offenses to which they are pleading guilty but mentally ill); <i>id.</i> § 176.033(3) (authorizing restitution when appropriate when a</p>
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	<p>Nev. Rev. Stat. Ann. § 175.533(1)–(2) (“During a trial, upon a plea of not guilty by reason of insanity, the trier of fact may find the defendant guilty but mentally ill if the trier of fact finds all of the following: (a) The defendant is guilty beyond a reasonable doubt of an offense; (b) The defendant has established by a preponderance of the evidence that due to a disease or defect of the mind, the defendant was mentally ill at the time of the commission of the offense; and (c) The defendant has not established by a preponderance of the evidence that the defendant is not guilty by reason of insanity pursuant to subsection 6 of NRS 174.035. . . . Except as otherwise provided by specific statute, a defendant who</p>	<p>guilty but mentally ill and to the victim of any related offense which is being dismissed or not prosecuted pursuant to this agreement. . . .”).</p>		<p>sentence of imprisonment is imposed).</p>
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	<p>is found guilty but mentally ill is subject to the same criminal, civil and administrative penalties and procedures as a defendant who is found guilty.”)</p> <p>Nev. Rev. Stat. Ann. § 176.057(1) (“If a defendant is found guilty but mentally ill pursuant to NRS 175.533 or the court accepts the defendant’s plea of guilty but mentally ill entered pursuant to NRS 174.035, and the court finds by a preponderance of the evidence that:</p> <p>(a) The defendant is not mentally ill at the time of sentencing, the court shall impose any sentence that the court is authorized to impose upon a defendant who pleads or is found guilty of the same offense; or</p> <p>(b) The defendant is mentally ill at the time of sentencing, the court shall:</p>			
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	<p>(1) Impose any sentence that the court is authorized to impose upon a defendant who pleads or is found guilty of the same offense; and</p> <p>(2) Include in that sentence an order that the defendant, during the period of confinement or probation, be given or obtain such treatment as is medically indicated for the defendant’s mental illness.”).</p>			
Oklahoma	<p>Okla. Stat. Ann. tit. 22, § 1161(A) (“1. An act committed by a person in a state of mental illness or mental defect shall be adjudicated as guilty with mental defect or as not guilty by reason of mental illness. 2. If a person is found guilty with mental defect or enters a plea of guilty with mental defect which is accepted by the court, the court at the time of sentencing shall impose any sentence that could be imposed by law</p>	<p>Okla. Const. art. II, § 34(A) (affording victims the right “to full and timely restitution”</p> <p>Okla. Stat. Ann. tit. 22, § 991f(A)(1) (“‘Restitution’ means the sum to be paid by the defendant to the victim of the criminal act to compensate that victim for up to three times the amount of the economic loss suffered as a direct result of the criminal act</p>		<p>Although Oklahoma has not yet directly addressed the availability of restitution in cases where a defendant has been found or has pleaded guilty with mental defect, state statutes suggest restitution is available in such instances. <i>See</i> Okla. Stat. Ann. tit. 22, § 1161(A)(2) (requiring courts to sentence defendants who have been found guilty with mental defect or who entered a plea to that</p>

	<p>upon a person who is convicted of the same offense, and the person shall serve the sentence in custody of a county jail or the Oklahoma Department of Corrections. . . .”).</p>	<p>of the defendant.”).</p> <p>Okla. Stat. Ann. tit. 22, § 991f(C) (“1. Upon conviction for any crime wherein property has been stolen, converted or otherwise unlawfully obtained, or its value substantially decreased as a direct result of the crime, or wherein the crime victim suffered injury, loss of income, or out-of-pocket loss, the individuals criminally responsible shall be sentenced to make restitution. Restitution may be ordered in addition to the punishments prescribed by law. 2. The court shall order full restitution based upon the following considerations:</p> <p>a. the nature and amount of restitution shall be sufficient to restore the crime victim to the equivalent economic status existing prior to the losses sustained as a</p>		<p>effect in the same manner as a defendant found guilty of same offense); <i>id.</i> § 991f(C) (requiring restitution upon a defendant’s conviction).</p>
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		direct result of the crime, and may allow the crime victim to receive payment in excess of the losses sustained; provided, the excess amount of restitution shall not be more than treble the actual economic loss incurred, and b. the amount of restitution shall be established regardless of the financial resources of the offender.”).		
Oregon	Or. Rev. Stat. Ann. § 161.295(1) (“A person is guilty except for insanity if, as a result of a qualifying mental disorder at the time of engaging in criminal conduct, the person lacks substantial capacity either to appreciate the criminality of the conduct or to conform the conduct to the requirements of law.”).	Or. Const. art. I, § 42(1)(d) (affording victims “[t]he right to receive prompt restitution from the convicted criminal who caused the victim’s loss or injury”). Or. Rev. Stat. Ann. § 137.106(1)(a) (“When a person is convicted of a crime, or a violation as described in ORS 153.008, that has resulted in economic damages, the district attorney shall investigate and present to	<i>State v. Thomas</i> , 69 P.3d 814, 814–15 (Or. Ct. App. 2003) (per curiam) (modifying judgment to delete restitution in case where defendant pleaded guilty except for insanity, upon concluding that a guilty but insane finding was not a conviction for the purposes of restitution, under <i>State v. Gile</i> , 985 P.2d 199, 204 (Or. Ct. App. 1999)). <i>State v. Gile</i> , 985 P.2d 199, 204 (Or. Ct. App.	Under Oregon case law, restitution is not available in cases where the defendant has pleaded guilty except for insanity. <i>State v. Thomas</i> , 69 P.3d 814, 814–15 (Or. Ct. App. 2003); <i>see also State v. Gile</i> , 985 P.2d 199, 204 (Or. Ct. App. 1999) (holding that a finding of guilty except insane is not a conviction for purposes of criminal statutes authorizing the imposition of costs and assessments).

		the court, at the time of sentencing or within 90 days after entry of the judgment, evidence of the nature and amount of the damages. If the court finds from the evidence presented that a victim suffered economic damages, in addition to any other sanction it may impose, the court shall enter a judgment or supplemental judgment requiring that the defendant pay the victim restitution in a specific amount that equals the full amount of the victim’s economic damages as determined by the court. . . .”).	1999) (holding that a finding of guilty except insane is not a conviction for purposes of criminal statutes authorizing the imposition of costs and assessments).	
Pennsylvania	18 Pa. Stat. and Cons. Stat. Ann. § 314 (“(a) A person who timely offers a defense of insanity in accordance with the Rules of Criminal Procedure may be found ‘guilty but mentally ill’ at trial if the trier of facts finds, beyond a	18 Pa. Stat. and Cons. Stat. Ann. § 1106(a) (“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	<i>Com. v. Liebensperger</i> , 904 A.2d 40, 42 (Pa. Super. Ct. 2006) (affirming lower court’s denial of defendant’s request for post-conviction relief in case where defendant had pleaded guilty but mentally ill and was	Although Pennsylvania has not yet directly addressed the availability of restitution in cases where a defendant has been found or has pleaded guilty but mentally ill, state statutes and case law suggest that restitution is available in such

	<p>reasonable doubt, that the person is guilty of an offense, was mentally ill at the time of the commission of the offense and was not legally insane at the time of the commission of the offense. . . . (b) A person who waives his right to trial may plead guilty but mentally ill. No plea of guilty but mentally ill may be accepted by the trial judge until he has examined all reports prepared pursuant to the Rules of Criminal Procedure, has held a hearing on the sole issue of the defendant’s mental illness at which either party may present evidence and is satisfied that the defendant was mentally ill at the time of the offense to which the plea is entered. . . .”).</p> <p>42 Pa. Stat. and Cons. Stat. Ann. § 9727(a) (“A defendant found guilty but mentally ill or whose</p>	<p>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.”)</p> <p>18 Pa. Stat. and Cons. Stat. Ann. § 1106(h) (defining “offender” as “[a]ny person who has been found guilty of any crime”).</p> <p>18 Pa. Stat. and Cons. Stat. Ann. § 11.201(6) (affording victims the right “[t]o be restored, to the extent possible, to the precrime economic status through the provision of restitution . . .”).</p>	<p>ordered to pay restitution).</p> <p><i>Com. v. Santiago</i>, 855 A.2d 682, 701 (Pa. 2004) (internal citations omitted) (“[A guilty but mentally ill] conviction does not negate [a defendant’s] intent to commit a criminal act. Rather, a determination that a defendant is guilty of a crime, but was mentally ill at the time of its commission, expressly recognizes that all elements of the crime have been met. . . . In fact, a defendant found to be guilty but mentally ill is entitled to no reduction in sentence.”).</p>	<p>instances. <i>See</i> 42 Pa. Stat. and Cons. Stat. Ann. § 9727(a) (authorizing courts to sentence defendants who have been found or who have pleaded guilty but mentally ill in the same manner as defendants found guilty of the same offense); <i>id.</i> § 35-50-5-3(a) (requiring restitution upon conviction of certain crimes); <i>see, e.g., Com. v. Liebensperger</i>, 904 A.2d 40, 42 (Pa. Super. Ct. 2006) (recognizing the availability of restitution in case involving a plea of guilty but mentally ill); <i>see also Com. v. Santiago</i>, 855 A.2d 682, 701 (Pa. 2004) (concluding that a guilty but mentally ill finding does not negate defendant’s intent to commit a criminal act, but it instead recognizes that all elements of the crime has been met and,</p>
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	<p>plea of guilty but mentally ill is accepted under the provisions of 18 Pa.C.S. § 314 (relating to guilty but mentally ill) may have any sentence imposed on him which may lawfully be imposed on any defendant convicted of the same offense. Before imposing sentence, the court shall hear testimony and make a finding on the issue of whether the defendant at the time of sentencing is severely mentally disabled and in need of treatment pursuant to the provisions of the act of July 9, 1976 (P.L. 817, No. 143), known as the Mental Health Procedures Act.”).</p>			<p>therefore, no reduction in sentence is available).</p>
<p>South Carolina</p>	<p>S.C. Code Ann. § 17-24-20(A) (“A defendant is guilty but mentally ill if, at the time of the commission of the act constituting the offense, he had the capacity to distinguish right from</p>	<p>S.C. Const. art. I, § 24(A)(9) (“To preserve and protect victims’ rights to justice and due process regardless of race, sex, age, religion, or economic status, victims of crime have the right to:</p>	<p><i>State v. Curry</i>, 762 S.E.2d 721, 725 (S.C. Ct. App. 2014) (stating that a guilty but mentally ill verdict, as opposed a not guilty by reason of insanity verdict, subjects the defendant to criminal</p>	<p>Although South Carolina has not yet directly addressed the availability of restitution in cases where a defendant has been found or has pleaded guilty but mentally ill, state statutes and case law</p>

	<p>wrong or to recognize his act as being wrong as defined in Section 17-24-10(A), but because of mental disease or defect he lacked sufficient capacity to conform his conduct to the requirements of the law.”).</p> <p>S.C. Code Ann. § 17-24-70 (“If a verdict is returned of ‘guilty but mentally ill’ the defendant must be sentenced by the trial judge as provided by law for a defendant found guilty, however: (A) If the sentence imposed upon the defendant includes the incarceration of the defendant, the defendant must first be taken to a facility designated by the Department of Corrections for treatment and retained there until in the opinion of the staff at that facility the defendant may safely be moved to</p>	<p>. . . receive prompt and full restitution from the person or persons convicted of the criminal conduct that caused the victim’s loss or injury, including both adult and juvenile offenders.”).</p> <p>S.C. Code Ann. § 17-25-322(A) (“When a defendant is convicted of a crime which has resulted in pecuniary damages or loss to a victim, the court must hold a hearing to determine the amount of restitution due the victim or victims of the defendant’s criminal acts. The restitution hearings must be held unless the defendant in open court agrees to the amount due, and in addition to any other sentence which it may impose, the court shall order the defendant make restitution or compensate the victim for any pecuniary damages. The defendant, the victim</p>	<p>liability and noting that “a defendant’s sentence is the same regardless of whether he is merely guilty or guilty but mentally ill”).</p>	<p>suggest that restitution is available in such instances. <i>See</i> S.C. Code Ann. § 17-24-70 (requiring courts, upon a verdict of guilty but mentally ill, to sentence defendants in the same manner as defendants found guilty of the same offense, in addition to certain other sentencing provisions related to defendants’ mental health); <i>id.</i> § 17-25-322 (requiring courts to hold restitution hearings upon a defendant’s conviction for a crime that resulted in pecuniary damage or loss to the victim); <i>see also State v. Curry</i>, 762 S.E.2d 721, 725 (S.C. Ct. App. 2014) (observing that “a defendant’s sentence is the same regardless of whether he is merely guilty or guilty but mentally ill”).</p>
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	<p>the general population of the Department of Corrections to serve the remainder of his sentence. (B) If the sentence includes a probationary sentence, the judge may impose those conditions and restrictions on the release of the defendant as the judge considers necessary for the safety of the defendant and of the community.”).</p>	<p>or victims, or their representatives or the victim’s legal representative as well as the Attorney General and the solicitor have the right to be present and be heard upon the issue of restitution at any of these hearings.”).</p>		
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