

How non-payment of restitution is handled depends on the sentence imposed:

Formal Probation

The defendant is supervised by an assigned probation officer who monitors payment of restitution among other conditions. Call Washington County Community Corrections to find out who is supervising the defendant.

Bench Probation

A defendant sentenced to bench probation is supervised by the Court and not a probation officer. When restitution is not paid, the sentencing judge is notified by an Affidavit of Nonpayment document prepared by the Court Accounting Department. This affidavit is prepared using a report that is automatically generated after the defendant is \$200.00 delinquent in paying their financial obligations. The judge will summons the defendant to a court hearing for explanation.

To draw attention to non-payment prior to the \$200.00 benchmark, contact the sentencing judge. The judge cannot take phone calls. A written letter can be sent to inquire about non-payment of restitution. Address your letter to the judge. The sentencing judge's name appears on the judgment or disposition document that was sent to you after sentencing.

A term of probation can be extended for nonpayment of restitution for up to a total of 6 years from the date of original sentence.

Diversion

A defendant sentenced to a diversion program is supervised by the Court and not a probation officer. The restitution and all other conditions must be completed at least two months prior to the end of probation. A payment schedule is not ordered at the time of sentencing. If the defendant fails the diversion program, s/he is sentenced to a term of probation or the case is sent to the Department of Revenue for collection of the restitution.

Prison

Restitution is not collected while a defendant is incarcerated. As part of a prison sentence, a term of Post-Prison Supervision is imposed (see below).

Post-Prison Supervision

The defendant reports to and is supervised by a post-prison supervising officer after release from prison. Prior to release, the defendant meets with a pre-release officer who reviews and verifies the sentence imposed, the conditions of release and the financial obligations, which become a term of the post-prison supervision. Payment plans are established but may take longer to start as the defendant requires time to acclimate back into society after release from prison.

Notification of Hearings Related to Non-Payment

You can invoke the right to be notified of probation or post-prison supervision violation hearings where non-payment of restitution can be addressed. Contact your Victim Advocate to ensure you have invoked this right. 503-846-8671

WHEN THE SENTENCE IS COMPLETE AND RESTITUTION HAS STILL NOT BEEN PAID

Department of Revenue and Collections

If restitution has not been paid in full prior to the end of supervision, the case is sent to a collections agency determined by the Oregon Judicial Department. The most common agency used is the **Oregon Department of Revenue or DOR**. DOR uses tools at its disposal to collect the various debts owed by the defendant, including back child support, criminal fines and fees, outstanding traffic tickets, and back-due taxes. Some of the tools include wage garnishment and state tax intercept. **The restitution judgment will remain for 50 years from the date of sentencing.**

DOR collects debts on a first-come, first-served basis. When another case or debt has been received before yours, that case will be paid in full prior to any payment being applied to the next debt in line. Due to strict confidentiality laws, agents at DOR cannot discuss the details of any case.



CONTACT INFORMATION

Bench Probation and Diversion

Washington County Circuit Court
The Honorable Judge: _____
145 NE Second Ave
Hillsboro OR 97124
Ref: ____ [Court case #]

**Court Accounting
Washington County Circuit Court**

(503) 846-8249
(503) 846-2290
(503) 846-8250

Formal Probation and Post-Prison Supervision

Washington County Community Corrections
(503) 846-3400

**Washington County District Attorney's Office
Victim Assistance
503-846-8671**

RESTITUTION



**Washington County
District Attorney's Office
Victim Assistance
Program**

**Kevin Barton
District Attorney**

Justice Services Building
150 North First Avenue, MS 40
Hillsboro, Oregon 97124
Phone (503) 846-8671
Fax (503) 846-3407
www.WashingtonCountyDA.org

WHAT IS RESTITUTION?

Restitution is **money that a criminal defendant is ordered to pay to a victim**. Under Oregon law, **all victims of crime** who experience a financial loss as a result of a crime have the right to request restitution.

Restitution is **ordered by the judge**. The amount of restitution ordered is based on the *economic damages* the victim suffered as a direct result of the crime

WHAT TYPES OF LOSSES QUALIFY?

Restitution can be requested for economic damages incurred due to a charged criminal act. Some possible qualifying losses are listed below.

- Unrecovered property stolen or damaged property
- Lost wages
- Medical/dental/rehabilitative costs
- Mental health counseling
- Certain home security costs
- Home & vehicle retrofits if disabled
- Future financial losses to surviving spouse
- Travel expenses (example: to court or hospital)
- Other losses related to the crime, even if not specified in the police report
- Reasonable and necessarily incurred costs due to loss of use of property/tools/equipment
- Burial and memorial expenses
- Relocation costs

The judge makes the final decision on what can and cannot be ordered as restitution.

WHAT LOSSES DO NOT QUALIFY?

Costs that are not related to the charged crimes cannot be included in a restitution order.

A criminal court also cannot order restitution payments for emotional pain, suffering, hardship, trauma, or anything that does not have a specific and verifiable monetary value. Victims seeking financial compensation for these types of losses may wish to hire an attorney to pursue a civil case against the defendant.

HOW DO I REQUEST RESTITUTION?

1. Complete the green restitution request form given to you by your Victim Advocate as completely as possible. Attach copies of any documents you have that support your loss (receipts, bills, estimates, treatment plans, etc.). If you don't have receipts, provide documentation by printing out estimated values (such as finding the product or similar product online).
2. Return the restitution form and supporting documents to the DA's Office by the date specified on the form. If you need additional time, simply call your Victim Advocate.
3. The defense attorney is provided with a copy of all documentation you submit. This "discovery" process is done *prior* to the sentencing hearing so that restitution can be ordered at the time of sentencing. *If we do not hear from you or receive your restitution request form, we are unable to notify the judge that you are requesting restitution.*
4. At the sentencing hearing, the judge will be provided a Restitution Notice with the amount of restitution you are requesting. If there is no objection from the defense attorney or judge, it is ordered. If there is an objection, the defendant has a right to a Restitution Hearing which will be scheduled for a future date.

Restitution is ideally ordered at sentencing. The judge can grant a limited extension to finalize restitution following sentencing.

WHAT IF I CANNOT SUBMIT MY DOCUMENTATION IN TIME?

If you are unable to meet the restitution deadline on your green restitution form, have questions about what to send in, or need an alternative method to send in documentation, simply call our office as soon as possible. If restitution figures are unavailable at the time of *sentencing*, the Deputy District Attorney may be able to ask the Court for a short extension to finalize the restitution request.

If an extension past sentencing is granted, continue gathering the restitution documentation as quickly as possible. You will be sent a notice from your Victim Advocate informing you that restitution has been left to be determined, and giving you a final deadline to send in documentation.

If the restitution request has not been received by the final deadline following sentencing, the Court will not be able to order restitution to you.

A RESTITUTION HEARING HAS BEEN SCHEDULED. DO I HAVE TO ATTEND?

When the defense questions the restitution amount, a Restitution Hearing is set so the judge can hear evidence and make a final decision on the amount of restitution to be ordered. You may be subpoenaed to appear and must be prepared to testify regarding your request. Without your testimony, the judge may not have enough information to order your requested restitution.

If you have any questions or concerns about testifying at a Restitution Hearing, contact your Victim Advocate or the prosecuting attorney who can help you understand what to expect.

You have the right to attend this hearing even if you are not subpoenaed. Be sure to notify your Victim Advocate if you plan to attend this hearing.

HOW DOES INSURANCE AFFECT MY REQUEST FOR RESTITUTION?

Victims do not have to submit a claim to their insurance company to cover their losses. Restitution can be requested instead. However, because there is no guarantee that the defendant will pay the restitution or that s/he will pay restitution timely (payment plans are often permitted), victims are encouraged to submit claims to their insurance. The defendant will then be ordered to pay restitution to your insurance company. Remember to still request restitution for your deductible.



AFTER RESTITUTION IS ORDERED

When the judge orders restitution as part of the sentence, the defendant is commonly allowed to make payments toward restitution and other financial obligations imposed as part of the sentence. The amount and schedule of payments is determined by the judge during sentencing or left up to the probation or post-prison supervising officer.

When determining an appropriate payment plan, the defendant's current circumstances, incarceration status and ability to pay are taken into consideration. \$25.00 per month is a common amount ordered.

Each payment received is split 50/50 between restitution and fees/fines. The 50% going to the victim is split between all victims in the case (except orders to third parties such as insurance companies and banks).

Defendants make payment to the Court Accounting Department in the Washington County Circuit Court. Processing time for payments varies. If the defendant pays with a personal check, a two week hold is added to the processing time. Checks to victims are issued once per week after the payment and paperwork is processed. Expect the payment to take approximately 30 days to reach you.

WHEN PAYMENTS ARE NOT RECEIVED

Contact Court Accounting First
Verify if they have received a late payment, or if the payment is being held. Also verify the address they have on file for you. **It is very important to keep your address current with the Court so payments are mailed to the right location.**