

What is Restitution?

- Restitution means payment of crime-related expenses to a victim from an offender.
- Restitution is mandatory in all criminal cases in which the defendant is convicted.
- Restitution is part of the sentencing order.

How Do I Ask for Restitution?

A victim of a crime has the right to ask the judge to order restitution. The Marion County Attorney is responsible for having the victim complete a "Victim's Pecuniary Damage Statement." Someone from the Marion County Attorney's Office should contact you about requesting restitution. If you are not contacted, call the County Attorney's Office at (641) 828-2223, or the Pre-Sentence Investigator at the Department of Correctional Services at (515) 281-4811 and tell them that you want to request restitution.

If the full extent of the victim's loss is not known at the time of sentencing, the amount of restitution may be determined or amended at a later date, assuming that a signed, pecuniary damage statement has already been filed.

Always keep the Clerk of Court or person supervising the offender aware of your current address so restitution payments can be sent to you.

The offender has the right to object to restitution ordered by the court. The court may hold a hearing on the restitution at any time due to objections by the offender. The Marion County Attorney's Office may contact you to ask you to testify at the restitution hearing. The County Attorney's Office will ask that you submit proof of your damages.

How Much Restitution Can Be Requested?

Victims of crime have the right to request restitution for all crime-related expenses which have not been covered by insurance, or the Crime Victim Compensation Program. This may include, but is not limited to:

- medical bills
- counseling expenses
- transportation
- lost wages due to an injury
- stolen or damaged property

Keep all of your bills, receipts, or other proof of your losses and attach copies to your victim pecuniary damage statement.

What If The Offender Has Not Paid The Restitution?

A court order does not guarantee payment by the offender.

Call the Marion County Clerk of Court at (641) 828-2207. The Clerk can tell you if the defendant was ordered to pay restitution and can inform you as to whether or not the defendant has made any payments, and to whom. If payment is still not made, victims may ask the County Attorney to schedule a contempt of court hearing. A hearing can be requested at any time.

At the review hearing, the judge has the following three (3) options:

- Hold the offender in contempt of court;
- Extend the offender's probation period to allow more time for payment; or
- Revoke the offender's probation and have the offender serve the remainder of his/her time in jail or prison.

If the offender was sent to prison, a portion of his/her wages and income may be used to pay restitution. If the offender has been released from prison, he/she will be held responsible for paying the rest of the restitution during the supervised parole period. If the offender fails to make payments, the parole can be revoked, causing the offender to return to prison for the remainder of his/her sentence.

How Can I Collect Restitution If The Defendant Is No Longer Under The Court's Supervision?

If the sentencing order was issued after July 1, 1992, the order is automatically considered a "Confession of Judgment." A confession of judgment is a civil order that is considered a judgment or lien against the offender. A restitution order recorded as a civil judgment will show up if a credit check is done on the offender. It will prevent the offender from being able to finance a car, for example, until he or she pays the restitution.

A civil judgment does not automatically result in the collection of money from the offender. Some options for collecting are seizing wages, property, bank accounts, and other assets. Collecting the restitution can cost \$50 in court fees or more, so you should consider the amount of unpaid restitution and whether the offender has the ability to pay.

Although it is not required, you may want to hire a private attorney. For a fee, an attorney can help you locate the offender's money or property and collect the restitution from the offender's bank account or wages. If you want to collect the money yourself without an attorney, the Clerk of Court can provide more information on the forms that need to be filed and the fees charged.

What If The Offender Is A Juvenile?

In some juvenile cases, a juvenile offender's parents can be held responsible for their child's debt up to \$2,000. A separate civil action would need to be brought against the parents which can usually be handled in Small Claims Court. Again, the Clerk of Court's office can provide the forms. There will be a filing fee.

What Is The Difference Between Restitution And Compensation?

Restitution is only available if the offender is convicted of a crime and restitution is ordered by the court. Restitution can be ordered for all your expenses related to the crime, including property losses. Restitution is paid by the offender.

Compensation refers to financial assistance provided by the Attorney General's Office for victims of violent crimes. You need to get an application from the Iowa Crime Victim Compensation Program. In all cases, you must file a compensation claim within two (2) years of the injury or within two (2) years of discovery in cases of child sexual abuse. The Crime Victim Compensation Program does not pay for property losses.

You should always seek restitution and file a claim for compensation. You may have trouble collecting restitution from the offender, or you may not be eligible for compensation, so it is a good idea to pursue both at the same time. If the program pays your expenses and the offender also pays you restitution for the same expenses, you must reimburse the Crime Victim Compensation Program for the amount the program paid.

Civil Remedies

Victims of crime may want to consider civil litigation, in addition to seeking restitution and victim compensation for crime-related damages, as well as psychological trauma, pain, and suffering, or loss of consortium. Several types of civil suits may be possible, including premise liability, uninsured/under-insured automobile coverage, and dram shop liability.

To determine if civil litigation is possible in your case, you must contact a private attorney who will review the case. Most private attorneys work on a contingent fee basis. If the attorney accepts the case on a contingent fee basis, and you are not successful in recovering civil damages, you are not required to pay attorney fees. If you are successful, you will pay the attorney 25%-40% of the settlement for their fees.