

# VICTIMS' RIGHTS IN CANADA

## RESTITUTION ORDERS

### What is a restitution order?

A restitution order requires the offender to pay the victim for financial losses the victim suffered because of the offender's crime. Restitution can only be ordered for losses up to the time the offender is sentenced. It is part of an offender's sentence and can be a stand-alone order or part of a probation order or conditional sentence.

### A Victim's Right!

The *Canadian Victims Bill of Rights* came into force on July 23, 2015. This Act gives every victim the right to have a court consider making a restitution order when deciding the offender's sentence. If the offender doesn't pay the restitution order, a victim also has the right to register the restitution order with a civil court and seek to enforce it as a judgment through that court.

### Costs restitution can cover

Restitution amounts must be easy to calculate and not in great dispute. For example, two weeks' lost wages due to injuries caused by an assault could be proved with pay stubs and absence forms (from work). The replacement costs for goods stolen or vandalized could be proved with store receipts or estimates for the replacement of the items.

A judge can order restitution to cover a victim's financial losses related to:

- Damaged or lost property due to the crime;
- Bodily injury or psychological harm due to the crime including loss of income or support;

- Reasonable expenses for temporary housing, moving, food, childcare and transportation due to a spouse, common-law partner, child or other person moving out of the offender's household because of harm or threat of harm from the offender;
- Re-establishing a victim's identity or correcting credit history or credit rating because of identity theft or fraud;
- Costs that victims of non-consensual publication of an intimate image had to pay to have that image removed from the Internet or other digital networks.

Restitution cannot be ordered for pain and suffering, emotional distress, or other types of damages that can only be assessed in civil courts.

### How is the restitution order paid?

The Court can order the offender to pay restitution directly to the victim or to a public authority created for this purpose. The Court can order the offender to pay the restitution amount immediately, by a specified day in the order, or as part of a payment plan. The Court can also order restitution to be paid to more than one victim and can assign priority among the victims on the order.

If an offender fails to pay a restitution order by the day specified in the court order or if the offender does not comply with a payment plan, a victim can file the order in the civil court and use civil enforcement methods to collect the unpaid amount. Some provincial and territorial Victim Services offer help to victims in collecting unpaid restitution orders.



RIGHT TO INFORMATION



RIGHT TO PROTECTION



RIGHT TO PARTICIPATION



RIGHT TO SEEK RESTITUTION



RIGHT TO MAKE A COMPLAINT



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## Documenting financial losses

It is a good idea for victims to start documenting their financial losses as soon as possible after the crime. This will help make sure they are ready to report their losses when the offender is sentenced. Some of the documents that are helpful include:

- Receipts for lost or damaged items;
- Invoices;
- Pay stubs that document lost wages;

- Absence forms from work that document lost wages;
- Bills for cost of repairs or replacements;
- Estimates for replacement items (for example, stolen or vandalized items that needed replacement or repair); or
- Any other documents that demonstrate financial loss due to the crime

Victims can use Form 34.1 (Statement on Restitution) to help document their financial losses.

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## Where is more information available?

If you or someone you know has been a victim of crime, there is help. All provinces and territories offer services for victims of crime. They can help you if you need information or other assistance. The Victim Services Directory can help you to find victim services near you:

<http://www.justice.gc.ca/eng/cj-jp/victims-victimes/vsd-rsv/index.html>