

# LEGISLATIVE RESEARCH SERVICES

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## Victim Restitution Reform in Other States

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*You asked for examples of legislation enacted in other states to streamline or centralize restitution.*

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Victim restitution is a vexing topic in most states. Nationwide, state agencies and offices are typically understaffed and underequipped to collect, track, and distribute court-ordered restitution from defendants to victims. Moreover, in Alaska, as in many other states, the judicial and executive branches of state government make competing demands on the financial resources of a defendant. These demands often include restitution, in addition to numerous other fees and fines imposed by the state, e.g. court costs, incarceration-related costs, or other funds required of defendants. In general, regardless of the type, amount, or number of payments owed by a defendant, collection is often a difficult and overwhelming challenge for states. As a practical matter, it is difficult to collect from a defendant with limited to no income or potential income, as is often the case. Accordingly, many victims do not receive the restitution they are owed.

Below, we present brief information on a handful of states that have enacted legislation to reform restitution by streamlining or centralizing restitution to victims. The selected examples range from laws giving priority to restitution over other forms of collection, to laws reorganizing collection processes and procedures by government entities.<sup>1</sup>

### Utah

Notably, the Utah State Legislature enacted comprehensive restitution reform in 2001.<sup>2</sup> The state's new policy addressed enforcement and collection of restitution, set out more effective processes and procedures, and established a statutory mechanism by which a restitution order may be enforced through a civil action. Furthermore, Utah's new policy prioritized restitution—above other financial demands made on defendants by the state—as follows:

#### Priority.

(1) If restitution to more than one person, agency, or entity is set at the same time, the department [of corrections] shall establish the following priorities of payment:

- (a) the crime victim;
- (b) the Office of Crime Victim Reparations;
- (c) any other government agency which has provided reimbursement to the victim as a result of the offender's criminal conduct; and
- (d) any insurance company which has provided reimbursement to the victim as a result of the offender's criminal conduct.

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<sup>1</sup>For Alaska in particular, the Alaska Criminal Justice Commission (ACJC) recently published a statewide report on restitution in the state. Among other recommendations, the ACJC advised Alaska to prioritize and streamline its restitution collections and processes. ACJC, "Victim Restitution: A Report to the Alaska State Legislature," December 1, 2016, <http://www.ajc.state.ak.us/sites/default/files/commission-recommendations/acjcrestitutionreport12-1-2016.pdf>.

<sup>2</sup> Utah's efforts to examine and improve restitution processes are the subject of a case study published by the Victims' Assistance Legal Organization (VALOR). "Restitution Policies and Procedures: the Case for Collaboration," Ch. 10, *A Compendium of Promising Practices for Restitution*, VALOR, <http://www.valor-national.org/restitution.html>.

(2) All money collected for court-ordered obligations from offenders by the department will be applied first to victim restitution, absent the \$30 per month required to be collected by the department ...<sup>3</sup>

Despite the state's prioritization of restitution, however, it is noteworthy that restitution remains out of reach for many victims. State officials cite the lack of defendant resources, as well as the lack of administrative resources, as recurring problems.<sup>4</sup> In March 2017, Utah enacted legislation to provide new procedures and penalties for the willful failure of a defendant to pay "criminal judgment accounts receivable," defined as "any amounts owed by a criminal defendant arising from a criminal judgment that has not been paid," such as "fines, surcharges, costs, interest, and restitution."<sup>5</sup> It remains to be seen what, if any, positive effects the new law may produce for victims who await restitution in the state.

### Rhode Island

In 2013, in a manner somewhat similar to Utah's policy of prioritization, Rhode Island established restitution as the first priority among a variety of payments owed by defendants. The law, in part, says the following:

- (i) Upon determination of restitution, court ordered restitution payments shall be paid first to persons injured until such time as the court's restitution is fully satisfied;
- (ii) Followed by the payment of court costs, fines, fees, and assessments related to prosecution.<sup>6</sup>

Representative Robert E. Craven, who sponsored the above language in 2013, explained the policy's intent, saying, "The basic purpose of restitution is to attempt to achieve fairness for the victim of the crime, not to cover court costs or enrich the judicial system." While restitution was already a statutory priority in Rhode Island before that provision went into effect, it was not the *first* priority until the state legislature amended the law to "absolutely, explicitly guarantee that it is the victim, the injured party, first and foremost, who receives compensation. Then, and only then, should any restitution payments accrue to the court."<sup>7</sup>

The administrative office of the Rhode Island court system is the entity responsible for managing, collecting, and distributing restitution in the state. Among other statewide responsibilities, the office receives and processes case information, collects and tracks payments from defendants, and distributes restitution to victims through the Superior Court Restitution Unit.<sup>8</sup> In a given case, advocates in the Victim Services Unit of the Attorney General's Office take the leading role in supporting victims in every stage of the criminal justice process. Toward the end of the case, these advocates coordinate with the

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<sup>3</sup> Utah H.B. 26, 2001, <https://le.utah.gov/~2001/bills/hbillenr/HB0026.htm>. For additional provisions, see Rule R671-403, Utah Administrative Code, <https://rules.utah.gov/publicat/code/r671/r671-403.htm>.

<sup>4</sup> "Are you a crime victim? Good luck collecting restitution in Utah," *Standard Examiner*, March 2, 2017, <http://www.standard.net/Courts/2017/03/02/Are-you-a-crime-victim-Good-luck-collecting-monetary-restitution-in-Utah>.

<sup>5</sup> Utah S.B. 71, 2017, <https://le.utah.gov/~2017/bills/static/SB0071.html>.

<sup>6</sup> Rhode Island General Laws, Section 12-19-34, <http://webserver.rilin.state.ri.us/Statutes/TITLE12/12-19/12-19-34.HTM>. Also, Section 12-28-5.1, <http://webserver.rilin.state.ri.us/Statutes/TITLE12/12-28/12-28-5.1.HTM>.

<sup>7</sup> Representative Robert E. Craven, press release, State of Rhode Island General Assembly News, July 11, 2013, [http://www.rilin.state.ri.us/pressrelease/\\_layouts/RIL.PressRelease.ListStructure/Forms/DisplayForm.aspx?List=c8baae31-3c10-431c-8dcd-9dbbe21ce3e9&ID=9072](http://www.rilin.state.ri.us/pressrelease/_layouts/RIL.PressRelease.ListStructure/Forms/DisplayForm.aspx?List=c8baae31-3c10-431c-8dcd-9dbbe21ce3e9&ID=9072).

<sup>8</sup> Rhode Island General Laws, Section 12-19-34, <http://webserver.rilin.state.ri.us/Statutes/TITLE12/12-19/12-19-34.HTM>. Also, "Compensation/Restitution," State of Rhode Island Attorney General's Office, <http://www.riag.ri.gov/CriminalUnit/VictimServicesUnit.php>.

Superior Court Restitution Unit—along with the Parole Board, Department of Probation and Parole, and Department of Corrections Office of Victim Services—to provide a “seamless transition for victims at the end of the Superior Court process.”<sup>9</sup>

## Other States

The National Center for Victims of Crime released a study of restitution reform in five states—Michigan, Vermont, Arizona, Florida, and California—in 2011. The report, titled “Making Restitution Real: Five Case Studies on Improving Restitution Collection,” is available at <https://victimsofcrime.org/library/publications/restitution-and-compensation>. Along with other information, the study highlights and explains, in detail, the following examples of restitution reform:

- The Michigan Supreme Court led a statewide initiative in 2004 to improve collection and enforcement of restitution, such as adding administrative staff in the court system and reassigning staffing hours to focus solely on collecting payments;
- Vermont reorganized restitution processes in 2002; it established a centralized Restitution Unit attached to an independent agency, the Vermont Center for Crime Victim Services, which, quite remarkably, pays restitution upfront to victims and assumes the responsibility of collecting payments from defendants later in time; agency funding is generated by a 15% state surcharge on criminal and traffic fines; accordingly, as a result of this innovative and evidently successful structure, “The vast majority of individual crime victims in Vermont receive, through the Restitution Fund, all of the restitution that is owed to them”; and
- California launched a statewide collection initiative in 2004; in a collaboration between the California State Legislature and the California Judicial Council, the state provided new standards for courts throughout the state and established, in statute, a “comprehensive collections program” by a court or county (defined as a program that meets at least 10 out of 14 stated program components) to collect restitution and other payments from defendants in their jurisdictions; as a result of these and other comprehensive statewide efforts, California has collected more restitution for victims since instituting these reforms.

Furthermore, California subsequently enacted additional reforms in 2016 to require, among other things, that any entity in the state that collects restitution “shall ensure, in making the referrals and distributions, that it coordinates with any other related collection activities that may occur by superior courts, counties, or other state agencies.”<sup>10</sup>

In general, in support of streamlining and improving collections on behalf of victims, the National Center for Victims of Crime observes that, “While developing a collections program, it is critical to designate one entity to be responsible for enforcing policies, procedures, and legislatively-mandated requirements.”<sup>11</sup>

We hope this is helpful. If you have questions or need additional information, please let us know.

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<sup>9</sup> “Victim Services Unit,” Rhode Island Attorney General’s Office, <http://www.riag.ri.gov/CriminalUnit/VictimServicesUnit.php>.

<sup>10</sup> California S.B. 1054, 2016, [http://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB1054](http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1054).

<sup>11</sup> “Making Restitution Real: Five Case Studies on Improving Restitution Collection,” p. 118.