



HOUSE BILL No. 5439

February 23, 2000, Introduced by Reps. Garcia and Gosselin and referred to the Committee on Criminal Law and Corrections.

A bill to amend 1985 PA 87, entitled "Crime victim's rights act," by amending sections 16, 44, and 76 (MCL 780.766, 780.794, and 780.826), sections 16 and 76 as amended by 1998 PA 232 and section 44 as amended by 1996 PA 562.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16. (1) For purposes of this section only, "victim"
2 means an individual who suffers direct or threatened physical,
3 financial, or emotional harm as a result of the commission of a
4 crime. For purposes of subsections (2), (3), (6), (8), (9), and
5 ~~(13)~~ (14), victim includes a sole proprietorship, partnership,
6 corporation, association, governmental entity, or any other legal
7 entity that suffers direct physical or financial harm as a result
8 of a crime.

1 (2) Except as provided in subsection (8), when sentencing a
2 defendant convicted of a crime, the court shall order, in
3 addition to or in lieu of any other penalty authorized by law or
4 in addition to any other penalty required by law, that the
5 defendant make full restitution to any victim of the defendant's
6 course of conduct that gives rise to the conviction or to the
7 victim's estate.

8 (3) If a crime results in damage to or loss or destruction
9 of property of a victim of the crime or results in the seizure or
10 impoundment of property of a victim of the crime, the order of
11 restitution may require that the defendant do 1 or more of the
12 following, as applicable:

13 (a) Return the property to the owner of the property or to a
14 person designated by the owner.

15 (b) If return of the property under subdivision (a) is
16 impossible, impractical, or inadequate, pay an amount equal to
17 the greater of subparagraph (i) or (ii), less the value, deter-
18 mined as of the date the property is returned, of that property
19 or any part of the property that is returned:

20 (i) The value of the property on the date of the damage,
21 loss, or destruction.

22 (ii) The value of the property on the date of sentencing.

23 (c) Pay the costs of the seizure or impoundment, or both.

24 (4) If a crime results in physical or psychological injury
25 to a victim, the order of restitution may require that the
26 defendant do 1 or more of the following, as applicable:

1 (a) Pay an amount equal to the cost of actual medical and
2 related professional services and devices relating to physical
3 and psychological care.

4 (b) Pay an amount equal to the cost of actual physical and
5 occupational therapy and rehabilitation.

6 (c) Reimburse the victim or the victim's estate for
7 after-tax income loss suffered by the victim as a result of the
8 crime.

9 (d) Pay an amount equal to the cost of psychological and
10 medical treatment for members of the victim's family that has
11 been incurred as a result of the crime.

12 (e) Pay an amount equal to the costs of actual homemaking
13 and child care expenses incurred as a result of the crime.

14 (5) If a crime resulting in bodily injury also results in
15 the death of a victim, the order of restitution may require that
16 the defendant pay an amount equal to the cost of actual funeral
17 and related services.

18 (6) If the victim or victim's estate consents, the order of
19 restitution may require that the defendant make restitution in
20 services in lieu of money.

21 (7) If the victim is deceased, the court shall order that
22 the restitution be made to the victim's estate.

23 (8) The court shall order restitution to the crime victim
24 services commission or to any individuals, partnerships, corpora-
25 tions, associations, governmental entities, or other legal enti-
26 ties that have compensated the victim or the victim's estate for
27 a loss incurred by the victim to the extent of the compensation

1 paid for that loss. The court shall also order restitution for
2 the costs of services provided to persons or entities that have
3 provided services to the victim as a result of the crime.
4 Services that are subject to restitution under this subsection
5 include, but are not limited to, shelter, food, clothing, and
6 transportation. However, an order of restitution shall require
7 that all restitution to a victim or victim's estate under the
8 order be made before any restitution to any other person or
9 entity under that order is made. The court shall not order res-
10 titution to be paid to a victim or victim's estate if the victim
11 or victim's estate has received or is to receive compensation for
12 that loss, and the court shall state on the record with specific-
13 ity the reasons for its action. If an entity entitled to resti-
14 tution under this subsection for compensating the victim or the
15 victim's estate cannot or refuses to be reimbursed for that com-
16 pensation, the restitution paid for that entity shall be depos-
17 ited by the state treasurer in the crime victim's rights fund
18 created under section 4 of 1989 PA 196, MCL 780.904, or its suc-
19 cessor fund.

20 (9) Any amount paid to a victim or victim's estate under an
21 order of restitution shall be set off against any amount later
22 recovered as compensatory damages by the victim or the victim's
23 estate in any federal or state civil proceeding and shall reduce
24 the amount payable to a victim or a victim's estate by an award
25 from the crime victim services commission made after an order of
26 restitution under this section.

1 (10) THE COURT SHALL ORDER RESTITUTION TO EACH INDIVIDUAL
2 WHO WAS COMPELLED TO APPEAR AS A WITNESS AT A TRIAL OR OTHER
3 PROCEEDING LEADING TO THE DEFENDANT'S CONVICTION. THE RESTITU-
4 TION FOR EACH WITNESS SHALL BE IN AN AMOUNT EQUAL TO \$25.00 FOR
5 EACH HOUR SPENT APPEARING AT THE TRIAL OR OTHER PROCEEDING OR
6 TRAVELING TO AND FROM THE TRIAL OR OTHER PROCEEDING, BUT NOT MORE
7 THAN \$200.00.

8 (11) ~~(10)~~ If not otherwise provided by the court under
9 this subsection, restitution shall be made immediately. However,
10 the court may require that the defendant make restitution under
11 this section within a specified period or in specified
12 installments.

13 (12) ~~(11)~~ If the defendant is placed on probation or
14 paroled or the court imposes a conditional sentence as provided
15 in section 3 of chapter IX of the code of criminal procedure,
16 1927 PA 175, MCL 769.3, any restitution ordered under this sec-
17 tion shall be a condition of that probation, parole, or
18 sentence. The court may revoke probation or impose imprisonment
19 under the conditional sentence and the parole board may revoke
20 parole if the defendant fails to comply with the order and if the
21 defendant has not made a good faith effort to comply with the
22 order. In determining whether to revoke probation or parole or
23 impose imprisonment, the court or parole board shall consider the
24 defendant's employment status, earning ability, and financial
25 resources, the willfulness of the defendant's failure to pay, and
26 any other special circumstances that may have a bearing on the
27 defendant's ability to pay.

1 (13) ~~(12)~~ A defendant who is required to pay restitution
2 and who is not in willful default of the payment of the restitu-
3 tion may at any time petition the sentencing judge or his or her
4 successor to modify the method of payment. If the court deter-
5 mines that payment under the order will impose a manifest hard-
6 ship on the defendant or his or her immediate family, the court
7 may modify the method of payment.

8 (14) ~~(13)~~ An order of restitution entered under this sec-
9 tion remains effective until it is satisfied in full. An order
10 of restitution is a judgment and lien against all property of the
11 defendant for the amount specified in the order of restitution.
12 The lien may be recorded as provided by law. An order of resti-
13 tution may be enforced by the prosecuting attorney, a victim, a
14 victim's estate, or any other person or entity named in the order
15 to receive the restitution in the same manner as a judgment in a
16 civil action or a lien.

17 (15) ~~(14)~~ Notwithstanding any other provision of this sec-
18 tion, a defendant shall not be imprisoned, jailed, or incarcer-
19 ated for a violation of probation or parole or otherwise for
20 failure to pay restitution as ordered under this section unless
21 the court or parole board determines that the defendant has the
22 resources to pay the ordered restitution and has not made a good
23 faith effort to do so.

24 (16) ~~(15)~~ In each case in which payment of restitution is
25 ordered as a condition of probation, the probation officer
26 assigned to the case shall review the case not less than twice
27 yearly to ensure that restitution is being paid as ordered. The

1 final review shall be conducted not less than 60 days before the
2 probationary period expires. If the probation officer determines
3 that restitution is not being paid as ordered, the probation
4 officer shall file a written report of the violation with the
5 court on a form prescribed by the state court administrative
6 office. The report shall include a statement of the amount of
7 the arrearage and any reasons for the arrearage known by the pro-
8 bation officer. The probation officer shall immediately provide
9 a copy of the report to the prosecuting attorney. If a motion is
10 filed or other proceedings are initiated to enforce payment of
11 restitution and the court determines that restitution is not
12 being paid or has not been paid as ordered by the court, the
13 court shall promptly take action necessary to compel compliance.

14 (17) ~~(16)~~ If a defendant who is ordered to pay restitution
15 under this section is remanded to the jurisdiction of the depart-
16 ment of corrections, the court shall provide a copy of the order
17 of restitution to the department of corrections when the
18 defendant is remanded to the department's jurisdiction.

19 Sec. 44. (1) For purposes of this section only:

20 (a) "Offense" means a violation of a penal law of this state
21 or a violation of an ordinance of a local unit of government of
22 this state punishable by imprisonment or by a fine that is not a
23 civil fine.

24 (b) "Victim" means an individual who suffers direct or
25 threatened physical, financial, or emotional harm as a result of
26 the commission of an offense. For purposes of subsections (2),
27 (3), (6), (8), (9), and ~~(13)~~ (14), victim includes a sole

1 proprietorship, partnership, corporation, association,
2 governmental entity, or any other legal entity that suffers
3 direct physical or financial harm as a result of an offense.

4 (2) Except as provided in subsection (8), at the disposi-
5 tional hearing for an offense, the court shall order, in addition
6 to or in lieu of any other disposition authorized by law, that
7 the juvenile make full restitution to any victim of the
8 juvenile's course of conduct that gives rise to the disposition
9 or to the victim's estate.

10 (3) If an offense results in damage to or loss or destruc-
11 tion of property of a victim of the offense, or results in the
12 seizure or impoundment of property of a victim of the offense,
13 the order of restitution may require that the juvenile do 1 or
14 more of the following, as applicable:

15 (a) Return the property to the owner of the property or to a
16 person designated by the owner.

17 (b) If return of the property under subdivision (a) is
18 impossible, impractical, or inadequate, pay an amount equal to
19 the greater of subparagraph (i) or (ii), less the value, deter-
20 mined as of the date the property is returned, of that property
21 or any part of the property that is returned:

22 (i) The value of the property on the date of the damage,
23 loss, or destruction.

24 (ii) The value of the property on the date of disposition.

25 (c) Pay the costs of the seizure or impoundment, or both.

1 (4) If an offense results in physical or psychological
2 injury to a victim, the order of restitution may require that the
3 juvenile do 1 or more of the following, as applicable:

4 (a) Pay an amount equal to the cost of actual medical and
5 related professional services and devices relating to physical
6 and psychological care.

7 (b) Pay an amount equal to the cost of actual physical and
8 occupational therapy and rehabilitation.

9 (c) Reimburse the victim or the victim's estate for
10 after-tax income loss suffered by the victim as a result of the
11 offense.

12 (d) Pay an amount equal to the cost of psychological and
13 medical treatment for members of the victim's family that has
14 been incurred as a result of the offense.

15 (e) Pay an amount equal the costs of actual homemaking and
16 child care expenses incurred as a result of the offense.

17 (5) If an offense resulting in bodily injury also results in
18 the death of a victim, the order of restitution may require that
19 the juvenile pay an amount equal to the cost of actual funeral
20 and related services.

21 (6) If the victim or victim's estate consents, the order of
22 restitution may require that the juvenile make restitution in
23 services in lieu of money.

24 (7) If the victim is deceased, the court shall order that
25 the restitution be made to the victim's estate.

26 (8) The court shall order restitution to the crime victims
27 compensation board or to any individuals, partnerships,

1 corporations, associations, governmental entities, or other legal
2 entities that have compensated the victim or the victim's estate
3 for a loss incurred by the victim to the extent of the compensa-
4 tion paid for that loss. The court shall also order restitution
5 for the costs of services provided to persons or entities that
6 have provided services to the victim as a result of the offense.
7 Services that are subject to restitution under this subsection
8 include, but are not limited to, shelter, food, clothing, and
9 transportation. However, an order of restitution shall require
10 that all restitution to a victim or victim's estate under the
11 order be made before any restitution to any other person or
12 entity under that order is made. The court shall not order res-
13 titution to be paid to a victim or victim's estate if the victim
14 or victim's estate has received or is to receive compensation for
15 that loss, and the court shall state on the record with specific-
16 ity the reasons for its action. If an entity entitled to resti-
17 tution under this subsection for compensating the victim or the
18 victim's estate cannot or refuses to be reimbursed for that com-
19 pensation, the restitution paid for that entity shall be depos-
20 ited in the crime victim's rights assessment fund or its succes-
21 sor fund.

22 (9) Any amount paid to a victim or victim's estate under an
23 order of restitution shall be set off against any amount later
24 recovered as compensatory damages by the victim or the victim's
25 estate in any federal or state civil proceeding and shall reduce
26 the amount payable to a victim or a victim's estate by an award

1 from the crime victims compensation board made after an order of
2 restitution under this section.

3 (10) THE COURT SHALL ORDER RESTITUTION TO EACH INDIVIDUAL
4 WHO WAS COMPELLED TO APPEAR AS A WITNESS AT A PROCEEDING LEADING
5 TO THE JUVENILE'S ADJUDICATION. THE RESTITUTION FOR EACH WITNESS
6 SHALL BE IN AN AMOUNT EQUAL TO \$25.00 FOR EACH HOUR SPENT APPEAR-
7 ING AT THE PROCEEDING OR TRAVELING TO AND FROM THE PROCEEDING,
8 BUT NOT MORE THAN \$200.00.

9 (11) ~~(10)~~ If not otherwise provided by the court under
10 this subsection, restitution shall be made immediately. However,
11 the court may require that the juvenile make restitution under
12 this section within a specified period or in specified
13 installments.

14 (12) ~~(11)~~ If the juvenile is placed on probation, any res-
15 titution ordered under this section shall be a condition of that
16 probation. The court may revoke probation if the juvenile fails
17 to comply with the order and if the juvenile has not made a good
18 faith effort to comply with the order. In determining whether to
19 revoke probation, the court shall consider the juvenile's employ-
20 ment status, earning ability, financial resources, the willful-
21 ness of the juvenile's failure to pay, and any other special cir-
22 cumstances that may have a bearing on the juvenile's ability to
23 pay.

24 (13) ~~(12)~~ A juvenile who is required to pay restitution
25 and who is not in willful default of the payment of the restitu-
26 tion may at any time petition the court to modify the method of
27 payment. If the court determines that payment under the order

1 will impose a manifest hardship on the juvenile or his or her
2 immediate family, the court may modify the method of payment.

3 (14) ~~-(13)-~~ An order of restitution entered under this sec-
4 tion remains effective until it is satisfied in full. An order
5 of restitution is a judgment and lien against all property of the
6 individual ordered to pay restitution for the amount specified in
7 the order of restitution. The lien may be recorded as provided
8 by law. An order of restitution may be enforced by the prosecut-
9 ing attorney, a victim, a victim's estate, or any other person or
10 entity named in the order to receive the restitution in the same
11 manner as a judgment in a civil action or a lien.

12 (15) ~~-(14)-~~ Notwithstanding any other provision of this sec-
13 tion, a juvenile shall not be detained for a violation of proba-
14 tion, or otherwise, for failure to pay restitution as ordered
15 under this section unless the court determines that the juvenile
16 has the resources to pay the ordered restitution and has not made
17 a good faith effort to do so.

18 (16) ~~-(15)-~~ If the court determines that the juvenile is or
19 will be unable to pay all of the restitution ordered, after
20 notice to the juvenile's parent or parents and an opportunity for
21 the parent or parents to be heard, the court may order the parent
22 or parents having supervisory responsibility for the juvenile at
23 the time of the acts upon which an order of restitution is based
24 to pay any portion of the restitution ordered that is
25 outstanding. An order under this subsection does not relieve the
26 juvenile of his or her obligation to pay restitution as ordered,
27 but the amount owed by the juvenile shall be offset by any amount

1 paid by his or her parent. As used in this subsection, "parent"
2 does not include a foster parent.

3 (17) ~~(16)~~ If the court orders a parent to pay restitution
4 under subsection ~~(15)~~ (16), the court shall take into account
5 the financial resources of the parent and the burden that the
6 payment of restitution will impose, with due regard to any other
7 moral or legal financial obligations that the parent may have.
8 If a parent is required to pay restitution under subsection
9 ~~(15)~~ (16), the court shall provide for payment to be made in
10 specified installments and within a specified period of time.

11 (18) ~~(17)~~ A parent who has been ordered to pay restitution
12 under subsection ~~(15)~~ (16) may petition the court for a modifi-
13 cation of the amount of restitution owed by the parent or for a
14 cancellation of any unpaid portion of the parent's obligation.
15 The court shall cancel all or part of the parent's obligation due
16 if the court determines that payment of the amount due will
17 impose a manifest hardship on the parent.

18 (19) ~~(18)~~ In each case in which payment of restitution is
19 ordered as a condition of probation, the juvenile caseworker or
20 probation officer assigned to the case shall review the case not
21 less than twice yearly to ensure that restitution is being paid
22 as ordered. The final review shall be conducted not less than 60
23 days before the expiration of the probationary period. If the
24 juvenile caseworker or probation officer determines the restitu-
25 tion is not being paid as ordered, the juvenile caseworker or
26 probation officer shall file a written report of the violation
27 with the court on a form prescribed by the state court

1 administrative office. The report shall include a statement of
2 the amount of the arrearage, and any reasons for the arrearage
3 that are known by the juvenile caseworker or probation officer.
4 The juvenile caseworker or probation officer shall immediately
5 provide a copy of the report to the prosecuting attorney. If a
6 motion is filed or other proceedings are initiated to enforce
7 payment of restitution and the court determines that restitution
8 is not being paid or has not been paid as ordered by the court,
9 the court shall promptly take action necessary to compel
10 compliance.

11 (20) ~~(19)~~ If the court determines that an individual who
12 is ordered to pay restitution under this section is remanded to
13 the jurisdiction of the department of corrections, the court
14 shall provide a copy of the order of restitution to the depart-
15 ment of corrections when the court determines that the individual
16 is remanded to the department's jurisdiction.

17 Sec. 76. (1) For purposes of this section only:

18 (a) "Misdemeanor" means a violation of a law of this state
19 or a local ordinance that is punishable by imprisonment for not
20 more than 1 year or a fine that is not a civil fine, but that is
21 not a felony.

22 (b) "Victim" means an individual who suffers direct or
23 threatened physical, financial, or emotional harm as a result of
24 the commission of a misdemeanor. For purposes of subsections
25 (2), (3), (6), (8), (9), and ~~(13)~~ (14), victim includes a sole
26 proprietorship, partnership, corporation, association,

1 governmental entity, or any other legal entity that suffers
2 direct physical or financial harm as a result of a misdemeanor.

3 (2) Except as provided in subsection (8), when sentencing a
4 defendant convicted of a misdemeanor, the court shall order, in
5 addition to or in lieu of any other penalty authorized by law or
6 in addition to any other penalty required by law, that the
7 defendant make full restitution to any victim of the defendant's
8 course of conduct that gives rise to the conviction or to the
9 victim's estate.

10 (3) If a misdemeanor results in damage to or loss or
11 destruction of property of a victim of the misdemeanor or results
12 in the seizure or impoundment of property of a victim of the mis-
13 demeanor, the order of restitution may require that the defendant
14 do 1 or more of the following, as applicable:

15 (a) Return the property to the owner of the property or to a
16 person designated by the owner.

17 (b) If return of the property under subdivision (a) is
18 impossible, impractical, or inadequate, pay an amount equal to
19 the greater of subparagraph (i) or (ii), less the value, deter-
20 mined as of the date the property is returned, of that property
21 or any part of the property that is returned:

22 (i) The value of the property on the date of the damage,
23 loss, or destruction.

24 (ii) The value of the property on the date of sentencing.

25 (c) Pay the costs of the seizure or impoundment, or both.

1 (4) If a misdemeanor results in physical or psychological
2 injury to a victim, the order of restitution may require that the
3 defendant do 1 or more of the following, as applicable:

4 (a) Pay an amount equal to the cost of actual medical and
5 related professional services and devices relating to physical
6 and psychological care.

7 (b) Pay an amount equal to the cost of actual physical and
8 occupational therapy and rehabilitation.

9 (c) Reimburse the victim or the victim's estate for
10 after-tax income loss suffered by the victim as a result of the
11 misdemeanor.

12 (d) Pay an amount equal to the cost of psychological and
13 medical treatment for members of the victim's family that has
14 been incurred as a result of the misdemeanor.

15 (e) Pay an amount equal to the costs of actual homemaking
16 and child care expenses incurred as a result of the misdemeanor.

17 (5) If a misdemeanor resulting in bodily injury also results
18 in the death of a victim, the order of restitution may require
19 that the defendant pay an amount equal to the cost of actual
20 funeral and related services.

21 (6) If the victim or victim's estate consents, the order of
22 restitution may require that the defendant make restitution in
23 services in lieu of money.

24 (7) If the victim is deceased, the court shall order that
25 the restitution be made to the victim's estate.

26 (8) The court shall order restitution to the crime victim
27 services commission or to any individuals, partnerships,

1 corporations, associations, governmental entities, or other legal
2 entities that have compensated the victim or the victim's estate
3 for a loss incurred by the victim to the extent of the compensa-
4 tion paid for that loss. The court shall also order restitution
5 for the costs of services provided to persons or entities that
6 have provided services to the victim as a result of the
7 misdemeanor. Services that are subject to restitution under this
8 subsection include, but are not limited to, shelter, food, cloth-
9 ing, and transportation. However, an order of restitution shall
10 require that all restitution to a victim or victim's estate under
11 the order be made before any restitution to any other person or
12 entity under that order is made. The court shall not order res-
13 titution to be paid to a victim or victim's estate if the victim
14 or victim's estate has received or is to receive compensation for
15 that loss, and the court shall state on the record with specific-
16 ity the reasons for its action. If an entity entitled to resti-
17 tution under this subsection for compensating the victim or the
18 victim's estate cannot or refuses to be reimbursed for that com-
19 pensation, the restitution paid for that entity shall be depos-
20 ited by the state treasurer in the crime victim's rights fund
21 created under section 4 of 1989 PA 196, MCL 780.904, or its suc-
22 cessor fund.

23 (9) Any amount paid to a victim or victim's estate under an
24 order of restitution shall be set off against any amount later
25 recovered as compensatory damages by the victim or the victim's
26 estate in any federal or state civil proceeding and shall reduce
27 the amount payable to a victim or a victim's estate by an award

1 from the crime victim services commission made after an order of
2 restitution under this section.

3 (10) THE COURT SHALL ORDER RESTITUTION TO EACH INDIVIDUAL
4 WHO WAS COMPELLED TO APPEAR AS A WITNESS AT A TRIAL OR OTHER PRO-
5 CEEDING LEADING TO THE DEFENDANT'S CONVICTION. THE RESTITUTION
6 FOR EACH WITNESS SHALL BE IN AN AMOUNT EQUAL TO \$25.00 FOR EACH
7 HOUR SPENT APPEARING AT THE TRIAL OR OTHER PROCEEDING OR TRAVEL-
8 ING TO AND FROM THE TRIAL OR OTHER PROCEEDING, BUT NOT MORE THAN
9 \$200.00.

10 (11) ~~(10)~~ If not otherwise provided by the court under
11 this subsection, restitution shall be made immediately. However,
12 the court may require that the defendant make restitution under
13 this section within a specified period or in specified
14 installments.

15 (12) ~~(11)~~ If the defendant is placed on probation or the
16 court imposes a conditional sentence as provided in section 3 of
17 chapter IX of the code of criminal procedure, 1927 PA 175, MCL
18 769.3, any restitution ordered under this section shall be a con-
19 dition of that probation or sentence. The court may revoke pro-
20 bation or impose imprisonment under the conditional sentence if
21 the defendant fails to comply with the order and if the defendant
22 has not made a good faith effort to comply with the order. In
23 determining whether to revoke probation or impose imprisonment,
24 the court shall consider the defendant's employment status, earn-
25 ing ability, and financial resources, the willfulness of the
26 defendant's failure to pay, and any other special circumstances
27 that may have a bearing on the defendant's ability to pay.

1 (13) ~~(12)~~ A defendant who is required to pay restitution
2 and who is not in willful default of the payment of the restitu-
3 tion may at any time petition the sentencing judge or his or her
4 successor to modify the method of payment. If the court deter-
5 mines that payment under the order will impose a manifest hard-
6 ship on the defendant or his or her immediate family, the court
7 may modify the method of payment.

8 (14) ~~(13)~~ An order of restitution entered under this sec-
9 tion remains effective until it is satisfied in full. An order
10 of restitution is a judgment and lien against all property of the
11 defendant for the amount specified in the order of restitution.
12 The lien may be recorded as provided by law. An order of resti-
13 tution may be enforced by the prosecuting attorney, a victim, a
14 victim's estate, or any other person or entity named in the order
15 to receive restitution in the same manner as a judgment in a
16 civil action or a lien.

17 (15) ~~(14)~~ Notwithstanding any other provision of this sec-
18 tion, a defendant shall not be imprisoned, jailed, or incarcer-
19 ated for a violation of probation or otherwise for failure to pay
20 restitution as ordered under this section unless the court deter-
21 mines that the defendant has the resources to pay the ordered
22 restitution and has not made a good faith effort to do so.

23 (16) ~~(15)~~ In each case in which payment of restitution is
24 ordered as a condition of probation, the probation officer
25 assigned to the case shall review the case not less than twice
26 yearly to ensure that restitution is being paid as ordered. The
27 final review shall be conducted not less than 60 days before the

1 probationary period expires. If the probation officer determines
2 that restitution is not being paid as ordered, the probation
3 officer shall file a written report of the violation with the
4 court on a form prescribed by the state court administrative
5 office. The report shall include a statement of the amount of
6 the arrearage and any reasons for the arrearage known by the pro-
7 bation officer. The probation officer shall immediately provide
8 a copy of the report to the prosecuting attorney. If a motion is
9 filed or other proceedings are initiated to enforce payment of
10 restitution and the court determines that restitution is not
11 being paid or has not been paid as ordered by the court, the
12 court shall promptly take action necessary to compel compliance.

13 (17) ~~(16)~~ If the court determines that a defendant who is
14 ordered to pay restitution under this section is remanded to the
15 jurisdiction of the department of corrections, the court shall
16 provide a copy of the order of restitution to the department of
17 corrections when the court determines that the defendant is
18 remanded to the department's jurisdiction.