**RESTITUTION INFORMATION**

***Visit the Arizona Judicial Branch’s website for helpful guidance on how to file a restitution lien:*** [***http://www.azcourts.gov/restitution***](http://www.azcourts.gov/restitution)

**A.R.S. § 13-805. Jurisdiction**

A. The trial court shall retain jurisdiction of the case as follows:

1. Subject to paragraph 2 of this subsection, for purposes of ordering, modifying and enforcing the manner in which court-ordered payments are made until paid in full or until the defendant's sentence expires.

2. For all restitution orders in favor of a victim, including liens and criminal restitution orders, for purposes of ordering, modifying and enforcing the manner in which payments are made until paid in full.

B. At the time the defendant is ordered to pay restitution by the court, the court may enter a criminal restitution order in favor of each person who is entitled to restitution for the unpaid balance of any restitution order. A criminal restitution order does not affect any other monetary obligation imposed on the defendant pursuant to law.

C. At the time the defendant completes the defendant's period of probation or the defendant's sentence or the defendant absconds from probation or the defendant's sentence, the court shall enter both:

1. A criminal restitution order in favor of the state for the unpaid balance, if any, of any fines, costs, incarceration costs, fees, surcharges or assessments imposed.

2. A criminal restitution order in favor of each person entitled to restitution for the unpaid balance of any restitution ordered, if a criminal restitution order is not issued pursuant to subsection B of this section.

D. The clerk of the court shall notify each person who is entitled to restitution of the criminal restitution order.

E. A criminal restitution order may be recorded and is enforceable as any civil judgment, except that a criminal restitution order does not require renewal pursuant to § 12-1611 or 12-1612. Enforcement of a criminal restitution order by any person who is entitled to restitution or by the state includes the collection of interest that accrues at a rate of ten percent per annum. A criminal restitution order does not expire until paid in full. A filing fee, recording fee or any other charge is not required for recording a criminal restitution order.

F. All monies paid pursuant to a criminal restitution order entered by the court shall be paid to the clerk of the court.[[1]](#footnote-1)

G. Monies received as a result of a criminal restitution order entered pursuant to this section shall be distributed in the following order of priority:

1. Restitution ordered that is reduced to a criminal restitution order.

2. Associated interest.

H. The interest accrued pursuant to subsection E of this section does not apply to fees imposed for collection of the court ordered payments.

I. A criminal restitution order is a criminal penalty for the purposes of a federal bankruptcy involving the defendant.

**A.R.S. § 13-806. Restitution lien**

1. The state or any person entitled to restitution pursuant to a court order may file in accordance with this section a restitution lien. A filing fee, recording fee or any other charge is not required for filing a restitution lien.

B. A restitution lien shall be signed by the attorney representing the state in the criminal action or by a magistrate and shall set forth all of the following information:

1. The name and date of birth of the defendant whose property or other interests are subject to the lien.

2. The present residence or principal place of business of the person named in the lien, if known.

3. The criminal proceeding pursuant to which the lien is filed, including the name of the court, the title of the action and the court's file number.

4. The name and address of the attorney representing the state in the proceeding pursuant to which the lien is filed or the name and address of the person entitled to restitution pursuant to a court order filing the lien.

5. A statement that the notice is being filed pursuant to this section.

6. The amount of restitution the defendant in the proceeding has been ordered to pay or an estimated amount of economic loss caused by the offense alleged in the proceeding if no restitution order has been entered yet.

7. A statement that the total amount of restitution owed will change and that the clerk of the court in which the proceeding was or is pending shall maintain a record of the outstanding balance.

C. A prosecutor or a victim in a criminal proceeding in which there was an economic loss may file a request with the court for a preconviction restitution lien after the filing of a misdemeanor complaint or felony information or indictment.

D. A victim in a criminal proceeding may file a restitution lien after restitution is determined and ordered by the trial court following pronouncement of the judgment and sentence.

E. A restitution lien is perfected against interests in personal property by filing the lien with the secretary of state, except that in the case of titled motor vehicles it shall be filed with the department of transportation motor vehicle division. A restitution lien is perfected against interests in real property by filing the lien with the county recorder of the county in which the real property is located. The state or a victim may give the additional notice of the lien as either deems appropriate.

F. The filing of a restitution lien in accordance with this section creates a lien in favor of the state or the victim in all of the following:

1. Any interest of the defendant in real property situated in the county in which the lien is filed then maintained or thereafter acquired in the name of the defendant identified in the lien.

2. Any interest of the defendant in personal property situated in this state then maintained or thereafter acquired in the name of the defendant identified in the lien.

3. Any property identified in the lien to the extent of the defendant's interest in the property.

G. The filing of a restitution lien under this section is notice to all persons dealing with the person or property identified in the lien of the state's or victim's claim. The lien created in favor of the state or the victim in accordance with this section is superior and prior to the claims or interests of any other person, except a person possessing any of the following:

1. A valid lien perfected before the filing of the restitution lien.

2. In the case of real property, an interest acquired and recorded before the filing of the restitution lien.

3. In the case of personal property, an interest acquired before the filing of the restitution lien.

H. This section does not limit the right of the state or any other person entitled to restitution to obtain any order or injunction, receivership, writ, attachment, garnishment or other remedy authorized by law.

I. Following the entry of the judgment and sentence in the criminal case, if the trial court sentences the defendant to pay a fine or awards costs of investigation or prosecution, the state may file a restitution lien pursuant to this section for the amount of the fine or costs, except that a lien may not be perfected against a titled motor vehicle.

J. A criminal restitution lien is a criminal penalty for the purposes of any federal bankruptcy involving the defendant.

K. The court shall order the release of any preconviction restitution lien that has been filed or perfected if the defendant is acquitted or the state does not proceed with the prosecution.

L. A self-service storage facility that forecloses its lien pursuant to § 33-1704 may sell personal property that is subject to a restitution lien. The proceeds from the sale, less the reasonable costs of sale, shall be paid to the restitution lienholder to satisfy the restitution lien as prescribed in § 33-1704. A person who is a good faith purchaser pursuant to § 33-1704 and who purchases personal property that is subject to a restitution lien takes the property free and clear of the rights of the restitution lienholder.

1. If requested by a victim or the victim’s attorney, the clerk of the court shall make the defendant’s payment history available without cost. A.R.S. § 13-812(H) [↑](#footnote-ref-1)