

CERTIFICATE OF ATTENDANCE FOR CALIFORNIA MCLE

Top portion of form to be completed by the Provider

It is preferred that the form is pre-printed with the attendees name and bar number.

Provider Name: Ventura County District Attorney's Office

Provider Number: 1130

Title of Activity: Victim Services

Date(s) of Activity: November 1, 2018

Time of Activity: 2:00 p.m. to 3:30 p.m.

Location of Activity (City/State): Ventura, CA

This Activity qualifies for: Participatory Self-Study

Total California MCLE Credit Hours for the above activity: 1.5, including the following sub-field credits:

- Legal Ethics: _____
- Recognition and Elimination of Bias: _____
- Competence Issues: _____

Bottom portion of form to be completed by the Attorney after participation in the above-referenced activity

By signing below, I certify that I participated in all, or some*, of the activity described above and am therefore entitled to claim the following California MCLE credit hours:

Total California MCLE Credit Hours: _____, including the following sub-field credits:

- Legal Ethics: _____
- Recognition and Elimination of Bias: _____
- Competence Issues: _____

(You may not claim credit for the subfields above unless the provider is granting credit in those areas above.)

Print Your Name (clearly): _____

Your California State Bar Number: _____

Signature: _____

* partial participation hours must be pro-rated

ACTIVITY EVALUATION FORM FOR CALIFORNIA MCLE

Please complete and return to Provider (Please Print)

Provider Name: Ventura County District Attorney's Office Provider Number: 1130

Title of Activity: Victim Services

Date(s) of Activity: November 1, 2018

Time of Activity: 2:00 p.m. to 3:30 p.m.

Location of Activity: Ventura, CA

Please indicate your evaluation of this course by completing the table below

Question	Yes	No	Comments
Did this program meet your educational objectives?	<input type="checkbox"/>	<input type="checkbox"/>	
Were you provided with substantive written materials?	<input type="checkbox"/>	<input type="checkbox"/>	
Did the course update or keep you informed of your legal responsibilities?	<input type="checkbox"/>	<input type="checkbox"/>	
Did the activity contain significant professional content?	<input type="checkbox"/>	<input type="checkbox"/>	
Was the environment suitable for learning (e.g., temperature, noise, lighting, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	

Please rate the instructor(s) of the course below

Instructor's Name and Subject Taught	On a scale of 1 to 5, with 1 being Poor and 5 being Excellent, please rate the items below	Rate 1 – 5
Rachael Watkins / Victim Services	Overall Teaching Effectiveness	—
	Knowledge of Subject Matter	—

Instructor's Name and Subject Taught	On a scale of 1 to 5, with 1 being Poor and 5 being Excellent, please rate the items below	Rate 1 – 5
	Overall Teaching Effectiveness	—
	Knowledge of Subject Matter	—

Instructor's Name and Subject Taught	On a scale of 1 to 5, with 1 being Poor and 5 being Excellent, please rate the items below	Rate 1 – 5
	Overall Teaching Effectiveness	—
	Knowledge of Subject Matter	—

Ventura County District Attorney's Office - Crime Victims' Assistance Unit

The Crime Victims' Assistance Unit functions to guide victims through the criminal justice system, to ensure victims' rights are honored, and to assist victims in obtaining services to help them cope with the trauma they have endured. The Crime Victims' Assistance Unit provides comprehensive services to victims of all crime types.

Victim advocates follow a trauma-informed service model, and work closely with the victim in order to gain an understanding of the victim's unique experience, learn the impact the crime has had on their lives, and provide meaningful and appropriate referrals.

Primary goals of the Crime Victims' Assistance Unit:

- To reduce trauma and ensure the sensitive treatment of crime victims
- Provide victims with a faster, more complete recovery from the effects of crime through crisis intervention and related support
- To assure that crime victims are an integral part of the case in which they are involved in
- To ensure that the victims' rights are being asserted upon request, and properly enforced

Services available to victims (outlined in PC 13835.5):

- Crisis intervention – providing timely and comprehensive responses to the individual needs of victims
- Emergency Assistance (food, shelter, clothing, transportation needs, safety measures, cash)
- Case status information – monitoring court cases to keep victims apprised of the progress and outcome of their case
- Orientation to the criminal justice system
- Direct counseling of the victim on problems resulting from the crime
- Court accompaniment and support
- Law enforcement interview accompaniment and support (including interviews conducted at our Ventura County Multi-Disciplinary Interview Centers (MDIC/Safe Harbor Centers)
- Resource and referral counseling to agencies within the community which are appropriate to meet the victim's needs
- Victim of Crime Compensation assistance
- Notification to friends, relatives, and employers of the occurrence of the crime and victim's condition, upon request of the victim.
- Inform victims of their rights, before, during and after prosecution
- Assistance with domestic violence/elder/dependent adult restraining orders (civil)
- Crime prevention information
- Property return – assistance in obtaining the return of a victim's property held as evidence by a law enforcement agency
- Hope Line cell phone program
- "Safe at Home" confidential address program

PENAL CODE

SECTION 13835-13835.2

13835. The Legislature finds and declares as follows:

(a) That there is a need to develop methods to reduce the trauma and insensitive treatment that victims and witnesses may experience in the wake of a crime, since all too often citizens who become involved with the criminal justice system, either as victims or witnesses to crime, are further victimized by that system.

(b) That when a crime is committed, the chief concern of criminal justice agencies has been apprehending and dealing with the criminal, and that after police leave the scene of the crime, the victim is frequently forgotten.

(c) That victims often become isolated and receive little practical advice or necessary care.

(d) That witnesses must make arrangements to appear in court regardless of their own schedules, child care responsibilities, or transportation problems, and that they often find long waits, crowded courthouse hallways, confusing circumstances and, after testifying, receive no information as to the disposition of the case.

(e) That a large number of victims and witnesses are unaware of both their rights and obligations.

(f) That although the State of California has a fund for needy victims of violent crimes, and compensation is available for medical expenses, lost income or wages, and rehabilitation costs, the application process may be difficult, complex, and time-consuming, and victims may not be aware that the compensation provisions exist.

It is, therefore, the intent of the Legislature to provide services to meet the needs of both victims and witnesses of crime through the funding of local comprehensive centers for victim and witness assistance.

13835.2. (a) Funds appropriated from the Victim-Witness Assistance Fund shall be made available through the agency to any public or private nonprofit agency for the assistance of victims and witnesses that meets all of the following requirements:

(1) It provides comprehensive services to victims and witnesses of all types of crime. It is the intent of the Legislature to make funds available only to programs that do not restrict services to victims and witnesses of a particular type of crime, and do not restrict services to victims of crime in which there is a suspect in the case.

(2) It is recognized by the board of supervisors as the major provider of comprehensive services to victims and witnesses in the county.

(3) It is selected by the board of supervisors as the agency to receive funds pursuant to this article.

(4) It assists victims of crime in the preparation, verification, and presentation of their claims to the California Victim Compensation and Government Claims Board for indemnification pursuant to Article 1 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code.

(5) It cooperates with the California Victim Compensation and Government Claims Board in verifying the data required by Article 1 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code.

(b) The agency shall consider the following factors, together with any other circumstances it deems appropriate, in awarding funds to public or private nonprofit agencies designated as victim and witness assistance centers:

(1) The capability of the agency to provide comprehensive services as defined in this article.

(2) The stated goals and objectives of the center.

(3) The number of people to be served and the needs of the community.

(4) Evidence of community support.

(5) The organizational structure of the agency that will operate the center.

(6) The capability of the agency to provide confidentiality of records.

Crime Victims' Assistance Unit





History of Victim Assistance

- large number of victims & witnesses are unaware of both their rights and obligations
- victims feel isolated, receive little practical advice or care
- funding for comprehensive centers for victims & witnesses

Primary Goals of the Crime Victims' Assistance Unit

- To reduce trauma and ensure the sensitive treatment of crime victims
- Provide victims with faster, more complete recovery from the effects of crime through crisis intervention and related support
- To assure that crime victims are an integral part of the case in which they are involved
- To ensure that the victims' rights are being properly enforced upon request

Sympathy vs. Empathy



Mandated Services to Crime Victims

- Crisis intervention
- Case status information
- Orientation to law enforcement and criminal justice system
- Property return
- Court accompaniment and support
- Emergency assistance (food, shelter, bus tokens, etc.)
- Resource and referrals
- Restitution assistance
- Victim of Crime Compensation assistance

California Victim Compensation

- Created in 1965 to lessen the financial impact of crime on victims
- Funded by offender fees, NOT taxpayer dollars
- Covers victims of crime that occurred in CA, or CA residents victimized outside the state
- Cooperate with LE and Cal VCP
- Are not in prison or felony probation/parole
- Medical/dental treatments, mental health services, relocation and many more

Other Services Available to Victims

- Interview accompaniment and support
- Crime prevention information
- Elder abuse/victims with disabilities
- SOS Cell Phone Program
- "Safe at Home" Confidential Address Program
- Telephonic communication for the hearing impaired
- Bi-lingual advocates
- Restraining order assistance and information

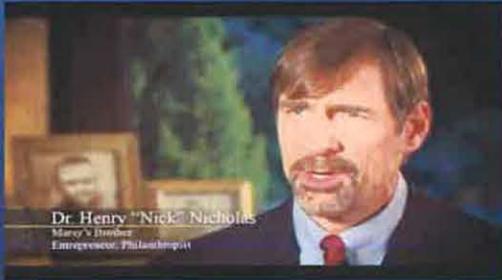
Domestic Violence Restraining Orders

- Work with Law enforcement for EPO
- Domestic Violence Restraining Orders (TRO/OAH) – court support
- Clinics 3x a week (English/Spanish)
- Criminal Protective Orders

Marsy's Law

The Victims' Bill of Rights Act of 2008

- Strongest and most comprehensive constitutional victims' rights law in the United States.
- Dr. Henry T. Nicholas – key backer and proponent of Marsy's Law.
- Law enforcement responsibility regarding Marsy's Law.



Dr. Henry "Nick" Nicholas
Marsy's Law Ambassador
Entrepreneur, Philanthropist

Effects of Victimization

Emotional reactions:

- helplessness
- powerlessness
- being out of control
- anger
- sadness
- fear or any combination of above

Physical reactions:

- red, flush face
- unnecessarily loud voice
- hyperventilation or rapid breathing
- shaking, twitching hands or clenched fists
- rigid body
- nausea, crying, tears

Trauma-Informed Services

- Trauma is an experience, or series of experiences, that results in survival driven behaviors, thoughts, emotions, sensations and needs.
- Trauma is a response to an event that includes intense fear, helplessness, or horror.
- Trauma-Informed service providers minimize re-victimization (secondary victimization)
- It is not the situation but how the situation is experienced that induces trauma.

Trauma-Informed Continued

- Experience/Impact/Intervention
- Victim must feel psychologically and physically safe
- Do not judge
- Inform and provide choices
- Accessibility/Availability

Survival Behaviors Safety Seeking Behaviors

Behaviors are understood as attempts to cope and survive, not as pathology.

- **Fight behaviors** - verbal attacks, aggressiveness, assaultive behavior, and defiance.
- **Flight behaviors** - running away, refusal to talk, dissociation, numbing out, substance abuse, eating disorder, depression, and becoming suicidal.
- **Freeze behavior** - lethargy, inability to make decisions, self-neglect, non-responsive, unable to sustain relationships.

Active Listening

Deliberate and conscious act of concentrating on what is being said by a victim.

TECHNIQUES:

- Period of silence
- Eye contact
- Body posture
- Summarize back to victim some of what they have said

Ventura County's Safe Harbor

Ventura County's Multi-disciplinary Interview and Advocacy Centers (MDIC)

- Safe Harbor West - Ventura
- Safe Harbor East - Simi Valley
- Both centers serve victims of all ages
- Both centers available to any law enforcement agency in the county

Non-Governmental Agencies

- Confidentiality - Privilege
- Life skills training
- Youth mentoring programs
- Employment assistance and job training
- Transportation
- Mental health services
- Legal assistance
- Health care

And many more.....

Vicarious Trauma

<https://www.youtube.com/watch?v=icYqLdlyvUk>

QUESTIONS

CRIME HURTS EVERYONE WE CAN HELP



HOW CAN I GET HELP?

The California Victim Compensation Board (CalVCB) is dedicated to providing financial assistance for many crime-related expenses.

Victims who suffer physical injury, threat of physical injury or emotional injury as a direct result of a violent crime may qualify for assistance.

To be eligible, a person must be a victim of a qualifying crime. For certain crimes, emotional injury alone is enough to qualify. Family members and loved ones may also be eligible.

HOW DO I APPLY?

- Download an application at victims.ca.gov and mail it to the address below
- Call **1-800-777-9229**
- For local help, visit victims.ca.gov/victims/localhelp.aspx to find nearby county victim advocates who can help you apply and navigate the criminal justice system

WHAT OTHER INFORMATION MAY BE HELPFUL?

- Receipts of crime-related expenses
- Medical, dental or mental health bills related to the crime
- Medical insurance card

COVERED CRIMES INCLUDE, BUT ARE NOT LIMITED TO:

- Assault
- Child Abuse
- Domestic Violence
- Drunk Driving
- Elder Abuse
- Hate Crimes
- Homicide
- Human Trafficking
- Online Harassment
- Robbery
- Sexual Assault
- Stalking
- Vehicular Manslaughter

CalVCB CAN HELP PAY FOR:

- Counseling
- Medical and dental treatment
- Income loss
- Funeral and burial expenses
- Residential security
- Medical equipment if lost or stolen
- Home or vehicle modifications for victims who became disabled
- Crime scene clean up
- Relocation

There are limits on how much can be provided for each loss.

HOW CALVCB HELPED CRIME VICTIMS IN 2017



rev. 6.22.2018

EL DELITO LASTIMA A TODOS **PODEMOS AYUDAR**



¿CÓMO PUEDO OBTENER AYUDA?

La Junta de Compensación para Víctimas de California (California Victim Compensation Board, CalVCB) está dedicada a proporcionar asistencia financiera para los diversos gastos relacionados con el delito

Las víctimas que sufren daños físicos, amenazas de daños físicos o daños emocionales como resultado directo de un delito violento pueden calificar para recibir asistencia.

Para ser elegible, una persona deber ser víctima de un delito calificado. Para ciertos delitos, el daño emocional es suficiente para poder calificar. Los miembros de familia y los seres queridos también pueden ser elegibles.

¿CÓMO PRESENTO LA SOLICITUD?

- Descargue una solicitud en **victims.ca.gov** y envíela por correo a la dirección que aparece abajo
- Llame al **1-800-777-9229**
- Para ayuda local, visite **victims.ca.gov/victims/localhelp.aspx** para localizar defensores para víctimas en el condado que se encuentren cerca y puedan ayudarle con la solicitud y a navegar en el sistema de justicia penal

¿QUE MÁS PUEDE AYUDAR CUANDO SOLICITO?

- Recibos de gastos relacionados con el delito
- Facturas médicas, dentales o de salud mental relacionadas con el delito
- Tarjeta de seguro médico

LOS DELITOS CUBIERTOS INCLUYEN, ENTRE OTROS:

- Asalto
- Abuso de menores
- Violencia doméstica
- Abuso de ancianos
- Crímenes motivados por el odio
- Homicidio
- Trata de personas
- Acoso cibernético
- Robo
- Agresión sexual
- Acoso
- Homicidio vehicular

CalVCB PUEDE AYUDAR CON EL PAGO DE:

- Consejería
- Tratamiento médico y dental
- Pérdida de ingresos
- Gastos de funeral y entierro
- Seguridad domiciliaria
- Equipo médico si fue extraviado o robado
- Modificaciones del hogar o del vehículo para las víctimas que quedaron discapacitadas
- Limpieza de la escena del crimen
- Reubicación/Mudanza

Existen límites en cuanto al monto que puede otorgarse por cada pérdida.

CÓMO CALVCB AYUDÓ A LAS VÍCTIMAS DEL DELITO EN 2017



ADULT RESTITUTION ORDER GUIDE

RESTITUTION ORDERS

The court must order full restitution. A defendant's inability to pay shall not be considered by the court. (Penal Code, § 1202.4(f) and (g)) Victim restitution is mandated by both the California Constitution and Penal Code, section 1202.4. A sentence is invalid if the court fails to address restitution. (People v. Rowland (1997) 51 Cal.App.4th 1754, 1751)

WHO CAN RECEIVE RESTITUTION?

- The victim (People v. Birkett (1999) 21 Cal.4th 226, 232)
- The victim's family, derivative victim, business entities and government (Penal Code, § 1202.4(k))
- Restitution Fund / CalVCB (Penal Code, § 1202.4(f)(4)(A))
- Insurance companies – as direct victims only (People v. Birkett, supra)

RESTITUTION INCLUDES, BUT IS NOT LIMITED TO:

Value of stolen or damaged property, medical expenses, mental health expenses, lost wages or profits interest, relocation expenses, security expenses, non-economic losses for felony violations of Penal Code, § 288, retrofit expenses for a residence or vehicle, reasonable attorney's fees and other costs of collection accrued by a private entity on behalf of the victim, funeral and burial expenses, dental expenses, rehabilitation expenses and support loss. (Penal Code, § 1202.4(f))

The court has broad discretion to order restitution as a condition of probation consistent with the ends of fostering rehabilitation and protecting public safety. (Penal Code, § 1203.1 (j))

BURDEN OF PROOF

The defendant has the burden of proof to show that the restitution recommendations in the probation report or the victim's estimates are inaccurate. The standard of proof for determining the amount of restitution is "preponderance of the evidence." (People v. Gemelli (2008) 161 Cal.App.4th 1539, 1542-1543)

JOINT AND SEVERAL LIABILITY

The court has the authority to order direct victim restitution paid by all defendants jointly and severally. (People v. Blackburn (1999) 72 Cal.App.4th 1520, 1535)

TO BE DETERMINED

If the amount of losses is unknown at the time of sentencing, the amount shall be determined at the direction of the court. (Penal Code, § 1202.4(f))

DUE PROCESS RIGHTS AND CONFRONTATION RIGHTS

A defendant's due process rights at a restitution hearing are very limited. Due process rights are satisfied when the defendant receives notice of the amount of restitution claimed and the defendant has an opportunity to challenge the amount. A defendant does not have the right at a restitution hearing to cross-examine witnesses. (People v. Cain (2000) 82 Cal.App. 4th 81)

PAYMENT BY INSURANCE COMPANIES AND THIRD PARTIES

A victim is entitled to receive restitution regardless of whether the victim has been reimbursed in part or in full by insurance. (People v. Birkett (1999) 21 Cal.4th 226)

The only time a defendant is entitled to an offset is when the defendant's insurance company has made a payment to the victim. (People v. Bernal (2002) 101 Cal.App.4th 155)

Third-party indemnification or subrogation rights do not affect the amount of restitution that is to be ordered. (Penal Code, § 1202.4(f)(2))

CHECKLIST

- Defendant has filed a statement of assets (Judicial Council Form CR-115) (Penal Code, § 1202.4(f)(5)-(11))

RESTITUTION FINES

- Misdemeanor or felony restitution fine (Penal Code, § 1202.4(b)(1)) (Alternate fine formula: minimum fine x years sentenced x felony counts)
- Probation revocation restitution fine (same amount as restitution fine) (Penal Code § 1202.44)
- Parole, post-release community supervision and mandatory supervision revocation restitution fines (same amount as restitution fine) (PC § 1202.45)
- Diversion fee \$100-\$1,000

RESTITUTION ORDERS

- Amount ordered to victim(s)
- Identify each victim and restitution amount
- Amount ordered to CalVCB
- Amount "To Be Determined" (If amount cannot be determined, set review date)
- Income deduction (Ability to Pay) (Penal Code, § 1202.42)
- Notify victim to file a CDCR Form 1707, if the defendant is sentenced to prison
- Prepare a CR-110 form for each victim and CalVCB
- Send a copy of the completed CR-110 form or Minute Order to CalVCB, if the restitution is in favor of CalVCB

ADULT RESTITUTION FINES GUIDE



RESTITUTION FINES

Restitution fines are a major source of funding for the State's Restitution Fund and the California Victim Compensation Board (CalVCB). CalVCB uses the State's Restitution Fund to assist victims and their families with economic losses suffered as a direct result of a qualifying crime.

MINIMUM AND MAXIMUM FINES BY YEAR* Minimum fines are determined by the date of the crime.	YEAR	2011 OR PRIOR	2012	2013	2014 AND ON
		MISDEMEANOR	\$100 - \$1,000	\$120 - \$1,000	\$140 - \$1,000
*AB 898 – Increased the minimum restitution fine amount for adult misdemeanor and felony offenses over a three year period (2012-2014).	FELONY	\$200 - \$10,000	\$240 - \$10,000	\$280 - \$10,000	\$300 - \$10,000

(Penal Code, § 1202.4(b)(1))

- The court shall impose the restitution fine unless it finds compelling and extraordinary reasons for not doing so and states those reasons on the record. (Penal Code, § 1202.4(c))
- Inability to pay is not a compelling and extraordinary reason for waiving the fine. (Penal Code, § 1202.4(c))
- A separate hearing for the fine is not required. (Penal Code, § 1202.4(d))

DETERMINING A FINE ABOVE THE MINIMUM

To set a misdemeanor or felony fine above the minimum, the court shall consider any relevant factors including, but not limited to (Penal Code, § 1202.4(d)):

- Number of victims
- Seriousness and gravity of the offense
- Circumstances of its commission
- Economic gain derived by the defendant as a result of the crime
- Extent to which any other person suffered losses
- Pecuniary losses to the victim or their dependents
- Psychological harm to the victim or their dependents
- Defendant's inability to pay
- Defendant's future earning capacity

Defendant is presumed to be able to pay above the minimum restitution fine and the statute expressly places the burden on a defendant to prove lack of ability. (People v. Romero (1996) 43 Cal. App.4th 440, 449)

A felony fine above the minimum MAY be determined by using the following formula: minimum fine x years sentenced x felony counts (of which the defendant is convicted, \$10,000 maximum). (Penal Code, § 1202.4(b)(2))

CIVIL JUDGMENT

Restitution fines and orders are enforceable as if they were civil judgments. (Penal Code, § 1214(a) & (b))

DEFENDANT'S STATEMENT OF ASSETS

The defendant must file a statement of assets (Form CR 115) with the clerk no later than the defendant's sentencing date, unless otherwise directed by the court. (Penal Code, § 1202.4(f)(5)-(10))

The defendant must file an updated financial statement with the clerk if there is an unpaid balance on a restitution order or fine 120 days prior to release from probation. (Penal Code, § 1202.4(f)(11))

PROBATION REVOCATION FINE

A trial court shall impose a probation revocation restitution fine, equal to the restitution fine, whenever a sentence includes a period of probation. The probation revocation restitution fine shall be suspended unless probation is revoked. (Penal Code, § 1202.44)

PAROLE, POST-RELEASE COMMUNITY SUPERVISION AND MANDATORY SUPERVISION REVOCATION FINES

In every case where the sentence includes a period of parole, post-release community supervision or mandatory supervision, a trial court shall impose a fine equal to the restitution fine. The parole revocation, post-release community supervision revocation or mandatory supervision revocation fine shall be suspended unless revocation occurs. (Penal Code, § 1202.45)

MANDATORY DIVERSION FEE/DEFERRED ENTRY OF JUDGMENT

\$100 - \$1,000 (Penal Code, § 1001.90(b) and (i))
Diversion also means deferred entry of judgment pursuant to Chapter 2.5 (commencing with section 1000) of the Penal Code. Exception: Persons whose cases are diverted pursuant to Chapter 2.8 (commencing with section 1001.20) of the Penal Code.

CHILD ABUSE/MOLEST FINE

Additional restitution fines may be imposed for child abuse/molestation crimes. Fines not to exceed \$5,000 for misdemeanor conviction and \$5,000 for felony conviction. The court must consider the defendant's ability to pay. The funds from this fine are deposited in the State's Restitution Fund and transferred to the county children's trust fund for the purposes of child abuse prevention. (Penal Code, § 294)

JUVENILE RESTITUTION ORDER GUIDE



RESTITUTION ORDERS

It is the intent of the legislature that a victim of conduct, for which a minor is found to be a person described in Welfare and Institutions Code section 602, who incurs any economic loss as a result of the minor's conduct shall receive restitution directly from that minor. (Welf. & Inst. Code § 730.6(a)(1)) The court SHALL order full restitution.

INVALIDITY OF SENTENCE

A sentence is invalid if the court fails to address restitution. (People v. Rowland (1997) 51 Cal.App.4th 1745, 1751)

WHO CAN RECEIVE RESTITUTION

- The direct victim and their family. (People v. Scott H., 221 Cal.App.4th 515)
For more information please see victims.ca.gov.
- Restitution Fund/CalVCB (Welf.& Inst. Code, § 730.6(i))
- Insurance companies – only if they are the direct victims – People v. Birkett, supra.
- Corporations, partnerships, government, legal or commercial entities that are direct victims (Welf. & Inst. Code, § 730.6(k))

Restitution shall be ordered in an amount to fully reimburse the victim(s) for all determined economic losses including all of the following:

Full or partial payment for the value of stolen or damaged property, medical expenses, wages or profits lost due to injury, caring for a minor victim, time spent as a witness or in assisting the police or prosecution by the victim. Also, if the victim is a minor or the minor's parents or guardians. (Welf. & Inst. Code, § 730.6(h)(1)(A)-(D))

The term "economic losses" is entitled to an expansive interpretation and a victim's right to restitution is to be broadly and liberally construed. (In re Johnny M. (2000) 100 Cal.App.4th 1128, 1132.)

CIVIL JUDGMENT

A restitution order is enforceable in the same manner as a civil judgment. (Welf. & Inst. Code § 730.6(i))

SETTING THE AMOUNT

The court may use any rational method of fixing the amount of restitution, provided it is reasonably calculated to make the victim whole, and provided it is consistent with the purpose of rehabilitation. (In re Brittany L. (2002) 99 Cal. App.4th 1381)

AMOUNT DETERMINED BY THE COURT

The amount of restitution is for the court to decide. The trial court may delegate to the probation officer the task of identifying losses and specifying the amount of restitution due. (In re Karen A. (2004) 115 Cal.App.4th 504)

This document was produced by CalVCB under 2014-VF-GX-K012, awarded by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The opinions, findings and conclusions expressed in this document are those of the contributors and do not necessarily represent the official policies of the U.S. Department of Justice.

rev. 9.1.2016

BURDEN OF PROOF

The defendant has the burden of proof to show that the restitution recommendations in the probation report or the victim's estimates are inaccurate. The standard of proof for determining the amount of restitution to be ordered is "preponderance of the evidence." (People v. Gemelli (2008) 161 Cal.App.4th 1539, 1542-1543)

REIMBURSEMENT FROM INSURANCE OR THIRD PARTIES

The court is not to consider whether the victim has been, or will be, reimbursed from third parties or insurance, in ordering restitution, since the statute provides that the victim is entitled to be "fully reimbursed" for the amount of the loss. (In re Brittany L. (2002) 99 Cal.App.4th 1381)

JOINT LIABILITY OF CO-OFFENDERS

When feasible, the court shall identify on the court order any co-offenders who are jointly and severally liable for victim restitution. (Welf. & Inst. Code, § 730.6(h)(4))

The juvenile court is vested with discretion to apportion restitution in a manner that will effectuate the legislative objectives of making the victim whole and rehabilitating the minor. (In re S.S. (1995) 37 Cal.App.4th 543)

AMOUNT UNKNOWN AT THE TIME OF SENTENCING

If the amount of loss cannot be ascertained at the time of sentencing, the amount shall be determined during the term of the commitment or probation. (Welf. & Inst. Code, § 730.6(h))

CHECKLIST

RESTITUTION FINES

- Misdemeanor not to exceed \$100
- Felony \$100 - \$1,000

RESTITUTION ORDERS

- Identify each victim and the amount of restitution ordered
- Amount ordered to CalVCB
- Amount each co-offender is to pay
- Amount "To Be Determined" (If amount cannot be determined, set review date)
- For a minor not committed to California Department of Corrections and Rehabilitation's Division of Juvenile Justice (formerly CYA) set date for annual review of restitution (Welf. & Inst. Code, § 730.8)
- Prepare a CR-110 for each victim and CalVCB
- Send a copy of the completed CR-110 form or Minute Order to CalVCB, if the restitution is in favor of CalVCB

JUVENILE RESTITUTION FINES GUIDE

RESTITUTION FINES

Restitution fines are a major source of funding for the State's Restitution Fund. The California Victim Compensation Board (CaIVCB) uses the Restitution Fund to assist victims and their families with economic losses suffered as a direct result of a qualifying crime.

- The restitution fine shall be proportionate with the seriousness of the offense. (Welf. & Inst. Code, § 730.6(b))
- The court may waive the felony fine only for compelling and extraordinary reasons. (Welf. & Inst. Code, § 730.6(g))
- A separate hearing for the fine is not required. (Welf. & Inst. Code, § 730.6)
- Misdemeanors - not to exceed \$100
- Felonies - \$100 - \$1,000



SETTING THE FINE AMOUNT

The restitution fine shall be in addition to any other disposition or fine imposed and shall be imposed regardless of the minor's inability to pay. (Welf. & Inst. Code, § 730.6(c))

Under Welfare and Institutions Code section 730.6(d)(1), the court shall consider any relevant factors including, but not limited to:

- Seriousness of the offense
- Extent to which any other person suffered losses
- Pecuniary losses to the victim or their dependents
- Psychological harm to the victim or their dependents
- Minor's economic gain
- Minor's ability to pay
- Minor's future earning capacity (Welf. & Inst. Code, § 730.6(d)(2))
- The minor bears the burden of showing inability to pay (Welf. & Inst. Code, § 730.6(d)(2))

CONDITION OF PROBATION

The court shall require, as a condition of probation, the payment of restitution fines and orders imposed. (Welf. & Inst. Code, § 730.6(1))

PRESUMPTION OF JOINT LIABILITY FOR FINES AND ORDERS

Pursuant to Welfare and Institutions Code section 730.7(a), a parent or guardian who has joint or sole legal and physical custody of the minor is rebuttably presumed to be jointly and severally liable with the minor for restitution orders, fines and penalty assessments, up to the limits of Civil Code sections 1714.1 and 1714.3.

Under Welfare and Institutions Code section 730.7(a):

- The parent or guardian's inability to pay is considered
- The parent or guardian has the burden of showing an inability to pay
- The court may consider parent or guardian's present income and future earning capacity
- This section does not apply to foster parents

Under Welfare and Institutions Code section 729.5(b), prior to the hearing, the parent or guardian must be given notice that they may be held liable.

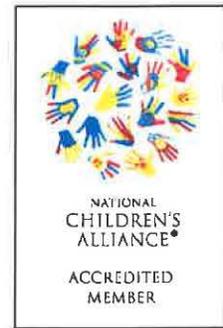
JUVENILE RESTITUTION STATUTES

- Welf. & Inst. Code § 729 Restitution for Victim of Battery on School Property
- Welf. & Inst. Code § 729.1 Restitution for Crime on Public Transit
- Welf. & Inst. Code § 729.5 Notice to Parents or Guardians
- Welf. & Inst. Code § 729.7 Performance of Service Contrast Between Victim and Minor
- Welf. & Inst. Code § 730.6 Restitution Fines, Orders, Hearings and Condition of Probation
- Welf. & Inst. Code § 730.7 Joint and Several Liability of Parents



Susan Becker
Program Coordinator
Safe Harbor West
(805) 641-4430

Jacque Richardson
Program Coordinator
Safe Harbor East
(805) 579-6912



The Ventura County District Attorney's Office opened Safe Harbor West in April 2002 and Safe Harbor East in September 2003. **From April 2002 through March 2018, 4,645 victims of sexual assault or physical abuse have received services through the centers. 3,121 were children under 18 years of age and 1,524 were adults.** The Safe Harbor centers are available 24 hours a day, seven days a week. Children and adults who are victims and non-offending family members may be brought to the centers either by law enforcement or Ventura County Children and Family Services. Safe Harbor's mission is to promote dignity and respect while minimizing trauma, ensure victims' safety, provide crisis intervention and support services in a safe environment, and to enhance the prosecution process.

2,314 victims received forensic medical-legal exams – 1,174 were children

389 children ages 0 – 6
219 children ages 7 – 12
566 children ages 13 – 17
1,140 adults 18+

3,799 victims received forensic interviews — 2,780 were children

682 children ages 0 – 6
907 children ages 7 – 12
1,191 children ages 13 – 17
1,019 adults 18+

In addition to forensic interviews and medico-legal exams, the Safe Harbor team provides the following supportive services to all sexual assault victims and to physically abused children:

- Culturally responsive crisis counseling and intervention
- Victims of Crime Compensation information and applications
- Crime prevention information, temporary restraining order information and assistance
- Emergency assistance for shelter, clothing, blankets, food and medical needs
- Resources and referral information for in-person counseling, legal assistance, housing, food, AIDS and STI testing
- If the case is prosecuted - orientation and guidance through the Criminal Justice System, court accompaniment, case updates, Victim Information and Notification Everyday (VINE)
- Education and outreach on sexual abuse prevention

From April 1, 2017 to March 31, 2018, Ventura County Children and Family Services reported 11,382 children with one or more referrals for child abuse.

Of those, 1,027 allegations were substantiated.

Approximately 83% of substantiated cases involved general neglect, 3.5% involved severe neglect, 3.4% involved sexual abuse, and 5.5% involved physical abuse.