

REFERENCE TITLE: *criminal restitution orders; interest*

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2466

Introduced by
Representative Ortiz

AN ACT

AMENDING SECTIONS 8-344 AND 13-805, ARIZONA REVISED STATUTES; RELATING TO
RESTITUTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-344, Arizona Revised Statutes, is amended to
3 read:

4 8-344. Restitution payments

5 A. If a juvenile is adjudicated delinquent, the court, after
6 considering the nature of the offense and the age, physical and mental
7 condition and earning capacity of the juvenile, shall order the juvenile
8 to make full or partial restitution to the victim of the offense for which
9 the juvenile was adjudicated delinquent or to the estate of the victim if
10 the victim has died. The juvenile shall make restitution payments to the
11 clerk of the court for disbursement to the victim or estate of the victim.

12 B. The court shall notify the victim or estate of the victim of the
13 dispositional hearing. The court may consider a verified statement from
14 the victim or estate of the victim concerning damages for lost wages,
15 reasonable damages for injury to or loss of property and actual expenses
16 of medical treatment for personal injury, excluding pain and suffering.

17 C. In ordering restitution pursuant to subsection A of this
18 section, the court may order one or both of the juvenile's custodial
19 parents to make restitution to the victim of the offense for which the
20 juvenile was adjudicated delinquent or to the estate of the victim if the
21 victim has died. The court shall determine the amount of restitution
22 ordered pursuant to this subsection, except that the amount shall not
23 exceed the liability limit established pursuant to section 12-661. The
24 court may order a parent or juvenile who is ordered to pay restitution to
25 satisfy the order in a lump sum or installment payments to the clerk of
26 the court for disbursement to the victim or estate of the victim. If the
27 court orders the juvenile's parents to make restitution pursuant to this
28 subsection, the court shall order the juvenile to make either full or
29 partial restitution, regardless of the juvenile's insufficient earning
30 capacity. The court shall not consider the ability of the juvenile's
31 parents to pay restitution before making a restitution order.

32 D. The juvenile court shall retain jurisdiction of the case after
33 the juvenile attains eighteen years of age for the purpose of modifying
34 the manner in which court ordered payments are to be made. After a
35 juvenile attains eighteen years of age or if the court retains
36 jurisdiction over the juvenile pursuant to section 8-202, subsection H on
37 termination of the juvenile's probation, the juvenile court shall enter a
38 juvenile restitution order in favor of each person entitled to restitution
39 for the unpaid balance of any restitution ordered pursuant to this
40 section.

41 E. The clerk of the court shall send a copy of the juvenile
42 restitution order to each person who is entitled to restitution.

43 F. A juvenile restitution order may be recorded and enforced as any
44 civil judgment, except that a juvenile restitution order does not require
45 renewal pursuant to section 12-1611 or 12-1612. A juvenile restitution

1 order does not expire until paid in full. ~~Enforcement of a juvenile~~
2 ~~restitution order by any person who is entitled to restitution or by the~~
3 ~~state includes the collection of interest, which accrues at a rate of ten~~
4 ~~percent per annum.~~

5 G. A juvenile restitution order is a criminal penalty for the
6 purposes of a federal bankruptcy involving the juvenile.

7 Sec. 2. Section 13-805, Arizona Revised Statutes, is amended to
8 read:

9 13-805. Jurisdiction

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

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

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

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

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

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

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

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

36 E. A criminal restitution order may be recorded and is enforceable
37 as any civil judgment, except that a criminal restitution order does not
38 require renewal pursuant to section 12-1611 or 12-1612. ~~Enforcement of a~~
39 ~~criminal restitution order by any person or by the state on behalf of any~~
40 ~~person who is entitled to restitution includes the collection of interest~~
41 ~~that accrues at a rate of ten percent a year. Enforcement of a criminal~~
42 ~~restitution order by the state includes the collection of interest that~~
43 ~~accrues at a rate of four percent a year.~~ A criminal restitution order
44 does not expire until paid in full. A filing fee, a recording fee or any
45 other charge is not required for recording a criminal restitution order.

1 F. All monies paid pursuant to a criminal restitution order entered
2 by the court shall be paid to the clerk of the court.

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

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

8 ~~2. Associated interest.~~

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

12 ~~F.~~ G. A criminal restitution order is a criminal penalty for the
13 purposes of a federal bankruptcy involving the defendant.