

Missouri Association of Prosecuting Attorneys
Victim Services Best Practices Subcommittee
(Restitution)
(Approved August 2016)

NOTICE: A best practices recommendation by the Missouri Association of Prosecuting Attorneys (MAPA) is the product of careful consideration by experienced prosecuting attorneys. However, it is only a recommendation. A best practices recommendation may or may not be feasible or desirable to implement in every county. There may be other methods in local jurisdictions to reach the same or similar objectives.

RECOMMENDATION #8 (Restitution)

8.1 - A prosecutor should seek restitution, including interest, on behalf of victims in all eligible cases pursuant to Section 559.110 RSMo. All reasonable efforts to determine accurate restitution amount should be made as soon as practical prior to resolution of any case.

Commentary: Art. I, Sec. 32.1(4) of the Missouri's Constitution grant crime victims the right to restitution as provided by law. A victim can include the original victim of the crime, the crime victim compensation fund, or an insurance company. Section 559.100 RSMo mandates that prosecutors enforce this right and provide the legal process for collection of restitution in eligible cases. Collection can occur as part of a diversion program or as part of a plea agreement. A prosecutor should ask the court to order specific amount of restitution at the time of sentencing, along with a minimum monthly amount. A payment schedule (showing interest) should be provided to the defendant. If the schedule changes due to missed payments, an updated schedule should be provided to the defendant as soon as practical. Restitution should be distributed to the crime victim as soon as possible, and on a regular schedule, ideally within 24 to 48 hours of receipt. Any outstanding balance should be placed on the record at the time of probation revocation and also recorded in the Judgment and Sentence, as well as the Commitment Report in order to allow the Department of Corrections to collect restitution from the defendant while incarcerated. Upon a defendant's parole, the prosecutor should request notification from the Department of Corrections for any case in which restitution was ordered, so that the prosecutor may take appropriate steps to continue collection of restitution.

8.2 – In any case where restitution is ordered as a condition of probation, a prosecutor should request a defendant not receive earned compliance credits until the restitution has been paid in full. In accordance with Section 559.105.2 RSMo, a defendant cannot be discharged from probation until restitution has been paid in full.

Commentary: Art. I, Sec. 32.1(4) of the Missouri's Constitution grant crime victims the right to restitution as provided by law. Section 559.100 RSMo mandates that prosecutors enforce this right and provides the legal process for collection of restitution in eligible cases. Section 559.105.2 RSMo provides:

No person ordered by the court to pay restitution pursuant to this section shall be released from probation until such restitution is complete. If full restitution is not made within the original term of probation, the court shall order the maximum term of probation allowed for such offense.

8.3 - A prosecutor should accept payment for restitution in a form that protects the victim, the prosecutor and the defendant. Payment may include money order, cashier's check or credit card. Accepting cash and personal checks is discouraged.

Commentary: Accepting cash and personal checks as payment is discouraged because it leaves all parties to the transaction at unnecessary risk. A safer form of payment is money order or cashier's check. If a prosecutor's office chooses to accept credit cards it cannot come at a cost to the prosecutor's office. Charges or convenience fees must be incurred by the defendant with their full knowledge and consent. A receipt should be provided to a defendant upon every payment along with an updated payment schedule.