

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 226
SENATE BILL 1503

AN ACT

AMENDING SECTION 13-804, 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 13-804, Arizona Revised Statutes, is amended to
3 read:

4 13-804. Restitution for offense causing economic loss; fine
5 for reimbursement of public monies; notification of
6 arrearage; review hearing

7 A. On a defendant's conviction for an offense causing economic loss
8 to any person, the court, in its sole discretion, may order that all or
9 any portion of the fine imposed be allocated as restitution to be paid by
10 the defendant to any person who suffered an economic loss caused by the
11 defendant's conduct.

12 B. In ordering restitution for economic loss pursuant to section
13 13-603, subsection C or subsection A of this section, the court shall
14 consider all losses caused by the criminal offense or offenses for which
15 the defendant has been convicted.

16 C. The court shall not consider the economic circumstances of the
17 defendant in determining the amount of restitution.

18 D. Restitution payments that are ordered pursuant to section 13-603
19 and this section shall not be stayed if the defendant files a notice of
20 appeal, and the payments may be held by the court pending the outcome of
21 an appeal.

22 E. After the court determines the amount of restitution, the court
23 or a staff member designated by the court, including a probation officer,
24 shall specify the manner in which the restitution is to be paid. In
25 deciding the manner in which the restitution is to be paid, the court or a
26 staff member designated by the court, including a probation officer, shall
27 make reasonable efforts to contact any victim who has requested notice
28 pursuant to sections 13-4415 and 13-4417, shall take into account the
29 views of the victim and shall consider the economic circumstances of the
30 defendant. In considering the economic circumstances of the defendant,
31 the court shall consider all of the defendant's assets and income,
32 including workers' compensation and social security benefits. The court
33 shall make all reasonable efforts to ensure that all persons WHO ARE
34 entitled to restitution pursuant to a court order promptly receive full
35 restitution. The court may enter any reasonable order necessary to
36 accomplish this. If a victim has received reimbursement for the victim's
37 economic loss from an insurance company, a crime victim compensation
38 program funded pursuant to section 41-2407 or any other entity, the court
39 shall order the defendant to pay the restitution to that entity. If a
40 victim has received only partial reimbursement for the victim's economic
41 loss, the court shall order the defendant to pay restitution first to the
42 victim and then to the entity that partially reimbursed the victim. If a
43 probation, parole or community supervision officer has reason to believe
44 that court ordered restitution is not being made, the officer shall report
45 to the court supervising the probationer or the board of executive

1 clemency that the defendant has failed to make restitution in a timely
2 manner and the court or the board of executive clemency may revoke the
3 defendant's probation, parole or community supervision.

4 F. If more than one defendant is convicted of the offense that
5 caused the loss, the defendants are jointly and severally liable for the
6 restitution.

7 G. If the court does not have sufficient evidence to support a
8 finding of the amount of restitution or the manner in which the
9 restitution should be paid, it may conduct a hearing on the issue
10 according to procedures established by court rule. The court may call the
11 defendant to testify and to produce information or evidence. The state
12 does not represent persons who have suffered economic loss at the hearing
13 but may present evidence or information relevant to the issue of
14 restitution.

15 H. After making the determinations in subsection B of this section
16 the trial court shall enter a restitution order for each defendant that
17 sets forth all of the following:

- 18 1. The total amount of restitution the defendant owes all persons.
- 19 2. The total amount of restitution owed to each person.
- 20 3. The manner in which the restitution is to be paid.

21 I. The restitution order under subsection H of this section may be
22 supported by evidence or information introduced or submitted to the court
23 before sentencing or any evidence previously heard by the judge during the
24 proceedings.

25 J. A restitution lien shall be created in favor of the state for
26 the total amount of the restitution.

27 K. A restitution lien shall be created in favor of the state for
28 the total amount of the fine, surcharges, assessments, costs,
29 incarceration costs and fees ordered, if any, except that a lien may not
30 be perfected against a titled motor vehicle.

31 L. Notwithstanding any other law, a restitution lien is created in
32 favor of a victim of the defendant ordered to make restitution. Monies
33 received monthly from the defendant shall be applied first to satisfy the
34 restitution order entered by the court and the payment of any restitution
35 in arrears. Any monies that are owed by this state to a person who is
36 under a restitution order shall be assigned first to discharge the
37 restitution order, including any tax refund that is owed to the defendant.

38 M. If the defendant, the state or persons entitled to restitution
39 pursuant to a court order disagree with the manner of payment established
40 in subsection E of this section, the defendant, court or person entitled
41 to restitution may petition the court at any time to change the manner in
42 which the restitution is paid. Before modifying the order pertaining to
43 the manner in which the restitution is paid, the court shall give notice
44 and an opportunity to be heard to the defendant, the state and, on
45 request, persons entitled to restitution pursuant to a court order.

1 N. THE ADULT PROBATION DEPARTMENT THAT IS SUPERVISING A PROBATIONER
2 SHALL NOTIFY THE COURT HAVING JURISDICTION OVER THE CASE WHEN THE
3 PROBATIONER BECOMES IN ARREARS IN AN AMOUNT THAT TOTALS FOUR FULL
4 COURT-ORDERED MONTHLY PAYMENTS OF VICTIM RESTITUTION. THE NOTIFICATION
5 MUST INCLUDE THE REASON FOR THE ARREARAGE AS INDEPENDENTLY CONFIRMED BY
6 THE SUPERVISING PROBATION OFFICER, THE EXPECTED DURATION OF THE ARREARAGE
7 AND A RECOMMENDATION TO THE COURT THAT EITHER FURTHER ACTION IS NOT
8 WARRANTED AT THIS TIME OR THAT A REVIEW HEARING SHOULD BE HELD PURSUANT TO
9 THIS SECTION. IF THE ADULT PROBATION DEPARTMENT RECOMMENDS THAT NO
10 FURTHER ACTION IS WARRANTED, THE ADULT PROBATION DEPARTMENT SHALL INCLUDE
11 SPECIFIC REASONS FOR THE RECOMMENDATION. A COPY OF THE NOTIFICATION SHALL
12 BE PROVIDED TO THE STATE AND TO THE VICTIM IF THE VICTIM HAS REQUESTED
13 NOTICE PURSUANT TO SECTION 13-4415. THE PROSECUTOR OR THE VICTIM MAY FILE
14 A WRITTEN OBJECTION TO THE RECOMMENDATION THAT INCLUDES THE REASONS FOR
15 THE OBJECTION. ANY OBJECTION MUST BE FILED WITH THE COURT WITHIN TEN DAYS
16 AFTER THE NOTIFICATION WAS PROVIDED TO THE PARTY.

17 O. THE COURT SHALL HOLD A REVIEW HEARING IF REQUESTED BY THE STATE
18 OR THE VICTIM OR, AFTER CONSIDERING THE NOTIFICATION FROM THE ADULT
19 PROBATION DEPARTMENT AND ANY OBJECTION FILED, MAY HOLD A REVIEW HEARING ON
20 ITS OWN MOTION. IF REQUESTED BY THE STATE OR VICTIM, THE HEARING MUST BE
21 HELD WITHIN FORTY-FIVE DAYS AFTER THE COURT RECEIVED THE REQUEST. A
22 REVIEW HEARING IS NOT REQUIRED IF A PETITION TO REVOKE PROBATION OR AN
23 ORDER TO SHOW CAUSE IS FILED. AT THE REVIEW HEARING, THE COURT MAY TAKE
24 ANY ACTION THAT IS PERMITTED BY LAW.

25 P. SUBSECTIONS N AND O OF THIS SECTION DO NOT PRECLUDE THE FILING
26 OF A PETITION TO REVOKE OR MODIFY PROBATION OR AN ORDER TO SHOW CAUSE
27 PURSUANT TO SECTION 13-810.

APPROVED BY THE GOVERNOR APRIL 12, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 13, 2018.