

§2005. Criteria for restitution

1. Restitution authorized. Restitution may be authorized, in whole or in part, as compensation for economic loss. In determining the amount of restitution authorized, the following must be considered:

- A. The contributory misconduct of the victim; [PL 2019, c. 113, Pt. A, §2 (NEW).]
- B. Failure to report the crime to a law enforcement officer within 72 hours after its occurrence, without good cause for failure to report within that time; and [PL 2019, c. 113, Pt. A, §2 (NEW).]
- C. The present and future financial capacity of the offender to pay restitution. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Restitution not authorized. Restitution is not authorized:

- A. To a victim without that victim's consent; [PL 2019, c. 113, Pt. A, §2 (NEW).]
- B. To a victim who is an accomplice of the offender; [PL 2019, c. 113, Pt. A, §2 (NEW).]
- C. To a victim who has otherwise been compensated from a collateral source, but economic loss in excess of the collateral compensation may be authorized; and [PL 2019, c. 113, Pt. A, §2 (NEW).]
- D. When the amount and method of payment of monetary restitution or the performance of service restitution creates an excessive financial hardship on the offender or dependent of the offender. In making this determination, all relevant factors must be considered, including, but not limited to, the following:

- (1) The number of the offender's dependents;
- (2) The minimum living expenses of the offender and the offender's dependents;
- (3) The special needs of the offender and the offender's dependents, including necessary travel expense to and from work;
- (4) The offender's present income and potential future earning capacity; and
- (5) The offender's resources, from whatever source. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Exception. The provisions of subsection 2, paragraph D do not apply to an offender that is an organization.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Burdens of proof. An offender who asserts a present or future incapacity to pay restitution has the burden of proving the incapacity by a preponderance of the evidence. On appeal of a restitution order, the offender has the burden of demonstrating that the incapacity was proven as a matter of law. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 131st Maine Legislature and is current through January 1, 2025. The

text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.