

## CHAPTER 910

## RESTITUTION

Referred to in [§216A.136](#), [321J.2](#), [422.7\(50\)](#), [462A.14](#), [602.8102\(135\)](#), [645.3](#), [710A.4](#), [815.9](#), [815.14](#), [822.2](#), [904.809](#), [904.905](#), [905.12](#), [909.3](#)

Victim compensation, see [chapter 915, subchapter VII](#)

910.1	Definitions.	910.5	Condition of work release or parole.
910.2	Restitution or community service ordered by sentencing court.	910.6	Payment plan — copy to victims.
910.2A	Reasonable ability to pay — category “B” restitution payments.	910.7	Petition for hearing — appellate review.
910.2B	Conversion of existing restitution orders.	910.7A	Judgment — enforcement.
910.3	Determination of amount of restitution.	910.8	Civil liability.
910.3A	Notification of homicide victim’s county of residence.	910.9	Collection of payments — payment by clerk of court.
910.3B	Restitution for death of victim.	910.10	Restitution lien.
910.4	Condition of probation — payment plan.	910.11	through 910.14 Reserved.
		910.15	Distribution of moneys received as result of commission of crime.

**910.1 Definitions.**

As used in [this chapter](#), unless the context otherwise requires:

1. “Category “A” restitution” means fines, penalties, and surcharges.
2. “Category “B” restitution” means the contribution of funds to a local anticrime organization which provided assistance to law enforcement in an offender’s case, the payment of crime victim compensation program reimbursements, payment of restitution to public agencies pursuant to [section 321J.2, subsection 13](#), paragraph “b”, court costs, court-appointed attorney fees ordered pursuant to [section 815.9](#), including the expense of a public defender, and payment to the medical assistance program pursuant to [chapter 249A](#) for expenditures paid on behalf of the victim resulting from the offender’s criminal activities including investigative costs incurred by the Medicaid fraud control unit pursuant to [section 249A.50](#).
3. “Criminal activities” means any crime for which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered and any other crime committed after July 1, 1982, which is admitted or not contested by the offender, whether or not prosecuted. However, “criminal activities” does not include simple misdemeanors under [chapter 321](#).
4. “Financial affidavit” means a signed affidavit under penalty of perjury that provides financial information about the offender to enable the sentencing court or the department of corrections to make a determination regarding the ability of the offender to pay category “B” restitution. “Financial affidavit” includes the offender’s income, physical and mental health, age, education, employment, inheritance, other debts, other amounts of restitution owed, family circumstances, and any assets subject to execution, including but not limited to cash, accounts at financial institutions, stocks, bonds, and any other property which may be applied to the satisfaction of judgments.
5. “Local anticrime organization” means an entity organized for the primary purpose of crime prevention which has been officially recognized by the chief of police of the city in which the organization is located or the sheriff of the county in which the organization is located.
6. “Pecuniary damages” means all damages to the extent not paid by an insurer on an insurance claim by the victim, which a victim could recover against the offender in a civil action arising out of the same facts or event, except punitive damages and damages for pain, suffering, mental anguish, and loss of consortium. Without limitation, “pecuniary damages” includes damages for wrongful death and expenses incurred for psychiatric or psychological services or counseling or other counseling for the victim which became necessary as a direct result of the criminal activity.

7. “*Permanent restitution order*” means an enforceable restitution order entered either at the time of sentencing or at a later date determined by the court.

8. “*Plan of payment*” or “*restitution plan of payment*” means a plan for paying restitution wherein the defendant is ordered to pay a certain amount of money each month to repay outstanding restitution.

9. “*Plan of restitution*” means a permanent restitution order, restitution plan of payment, any other court order relating to restitution, or any combination of the foregoing.

10. “*Restitution*” means pecuniary damages, category “A” restitution, and category “B” restitution.

11. “*Victim*” means a person who has suffered pecuniary damages as a result of the offender’s criminal activities. However, for purposes of [this chapter](#), an insurer paying a victim’s insurance claim is not a victim and does not have a right of subrogation. An insurer may be a victim for purposes of [this chapter](#) if insurance fraud in violation of [section 507E.3](#) or [507E.3A](#) has been perpetrated against the insurer. The crime victim compensation program is not an insurer for purposes of [this chapter](#), and the right of subrogation provided by [section 915.92](#) does not prohibit restitution to the crime victim compensation program.

[C75, 77, §789A.8; C79, 81, §907.12; 82 Acts, ch 1162, §2]

83 Acts, ch 15, §1, 3; 90 Acts, ch 1251, §73, 74; 91 Acts, ch 181, §2, 16; 94 Acts, ch 1142, §15; 96 Acts, ch 1091, §1, 2; 97 Acts, ch 140, §2; 97 Acts, ch 177, §34; 98 Acts, ch 1090, §83, 84; 2002 Acts, ch 1119, §195; 2003 Acts, ch 44, §107; 2010 Acts, ch 1124, §6, 9; 2011 Acts, ch 52, §2; 2018 Acts, ch 1019, §1, 2; 2020 Acts, ch 1074, §69, 70, 83

Referred to in §321.40, 602.8107, 910.3B, 915.100

## **910.2 Restitution or community service ordered by sentencing court.**

1. a. In all criminal cases in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, the sentencing court shall order that pecuniary damages be paid by each offender to the victims of the offender’s criminal activities, and that all other restitution be paid to the clerk of court subject to the following:

(1) Pecuniary damages and category “A” restitution shall be ordered without regard to an offender’s reasonable ability to make payments.

(2) Category “B” restitution shall be ordered subject to an offender’s reasonable ability to make payments pursuant to [section 910.2A](#).

b. Pecuniary damages shall be paid to victims in full before category “A” and category “B” restitution are paid.

c. In structuring a plan of restitution, the plan of payment shall provide for payments in the following order of priority:

(1) Pecuniary damages to the victim.

(2) Category “A” restitution.

(3) Category “B” restitution in the following order:

(a) Crime victim compensation program reimbursement.

(b) Public agencies.

(c) Court costs.

(d) Court-appointed attorney fees ordered pursuant to [section 815.9](#), including the expense of a public defender.

(e) Contribution to a local anticrime organization.

(f) The medical assistance program.

2. a. When the offender is not reasonably able to pay all or a part of category “B” restitution, the court may require the offender in lieu of that portion of category “B” restitution for which the offender is not reasonably able to pay, to perform a needed public service for a governmental agency or for a private nonprofit agency which provides a service to the youth, elderly, or poor of the community.

b. When community service is ordered, the court shall set a specific number of hours of service to be performed by the offender. When calculating the amount of community service to be performed in lieu of payment of court-appointed attorney fees, the court shall determine the approximate equivalent value of the expenses of the public defender. The judicial district

department of correctional services shall provide for the assignment of the offender to a public agency or private nonprofit agency to perform the required service.

[C75, 77, §789A.8; C79, 81, §907.12; [82 Acts, ch 1162, §3](#)]

[83 Acts, ch 15, §2, 3](#); [85 Acts, ch 195, §66](#); [90 Acts, ch 1251, §75](#); [92 Acts, ch 1242, §36](#); [94 Acts, ch 1142, §16](#); [95 Acts, ch 75, §1](#); [96 Acts, ch 1091, §3](#); [96 Acts, ch 1193, §21](#); [97 Acts, ch 140, §3](#); [97 Acts, ch 177, §35](#); [2000 Acts, ch 1115, §9](#); [2002 Acts, ch 1119, §196](#); [2010 Acts, ch 1093, §2](#); [2010 Acts, ch 1124, §7, 9](#); [2011 Acts, ch 52, §3](#); [2019 Acts, ch 59, §232](#); [2020 Acts, ch 1074, §71, 83](#)

Referred to in [§249A.55, 910.3B](#)

#### **910.2A Reasonable ability to pay — category “B” restitution payments.**

1. An offender is presumed to have the reasonable ability to make restitution payments for the full amount of category “B” restitution.

2. If an offender requests that the court determine the amount of category “B” restitution payments the offender is reasonably able to make toward paying the full amount of such restitution, the court shall hold a hearing and make such a determination, subject to the following provisions:

a. To obtain relief at such a hearing, the offender must affirmatively prove by a preponderance of the evidence that the offender is unable to reasonably make payments toward the full amount of category “B” restitution.

b. The offender must furnish the prosecuting attorney and sentencing court with a completed financial affidavit. Failure to furnish a completed financial affidavit waives any claim regarding the offender’s reasonable ability to pay.

c. The prosecuting attorney, the attorney for the defendant, and the court shall be permitted to question the offender regarding the offender’s reasonable ability to pay.

d. Based on the evidence offered at the hearing, including but not limited to the financial affidavit, the court shall determine the amount of category “B” restitution the offender is reasonably able to make payments toward, and order the offender to make payments toward that amount.

3. a. If an offender does not make a request as provided in [subsection 2](#) at the time of sentencing or within thirty days after the court issues a permanent restitution order, the court shall order the offender to pay the full amount of category “B” restitution.

b. An offender’s failure to request a determination pursuant to [this section](#) waives all future claims regarding the offender’s reasonable ability to pay, except as provided by [section 910.7](#).

4. If an offender requests that the court make a determination pursuant to [subsection 2](#), the offender’s financial affidavit shall be filed of record in all criminal cases for which the offender owes restitution and the affidavit shall be accessible by a prosecuting attorney or attorney for the offender without court order or appearance.

5. A court that makes a determination under [this section](#) is presumed to have properly exercised its discretion. A court is not required to state its reasons for making a determination.

[2020 Acts, ch 1074, §72, 83](#)

Referred to in [§910.2, 910.2B](#)

#### **910.2B Conversion of existing restitution orders.**

1. All of the following, if entered by a district court prior to June 25, 2020, shall be converted to permanent restitution orders:

a. A temporary restitution order.

b. A supplemental restitution order.

c. A restitution order that does not contain a determination of the defendant’s reasonable ability to pay the restitution ordered.

2. The only means by which a defendant may challenge the conversion of a restitution order is through the filing of a petition pursuant to [section 910.7](#).

3. The provisions of [this chapter](#), including but not limited to the procedures in [section](#)

[910.2A](#), shall apply to a challenge to the conversion of an existing restitution order in the district court and on appeal.

4. A challenge to the conversion of an existing restitution order to a permanent restitution order shall be filed in the district court no later than one year from June 25, 2020.

[2020 Acts, ch 1074, §73, 83; 2021 Acts, ch 80, §381, 385](#)

Section not amended; section history revised

### **910.3 Determination of amount of restitution.**

1. The prosecuting attorney shall prepare a statement of pecuniary damages to victims of the defendant and, if applicable, any award by the crime victim compensation program and expenses incurred by public agencies pursuant to [section 321J.2, subsection 13](#), paragraph “b”, and shall provide the statement to the presentence investigator or submit the statement to the court at the time of sentencing.

2. The clerk of court shall prepare a statement of court-appointed attorney fees ordered pursuant to [section 815.9](#), including the expense of a public defender and court costs, which shall be provided to the presentence investigator or submitted to the court at the time of sentencing.

3. If the statements in [subsection 1 or 2](#) are provided to the presentence investigator, they shall become a part of the presentence report.

4. If pecuniary damage amounts are not available or are incomplete at the time of sentencing, the prosecuting attorney shall provide a statement of pecuniary damages incurred up to that time to the clerk of court.

5. The statement of pecuniary damages shall ordinarily be provided no later than thirty days after sentencing. However, a prosecuting attorney may file a statement of pecuniary damages within a reasonable time after the prosecuting attorney is notified by a victim of any pecuniary damages incurred.

6. If a defendant believes no person suffered pecuniary damages, the defendant shall so state.

7. If the defendant has any mental or physical impairment which would limit or prohibit the performance of community service, the defendant shall so state. The court may order a mental or physical examination, or both, of the defendant to determine a proper course of action.

8. The court shall enter a permanent restitution order setting out the amount of restitution including the amount of community service to be performed as restitution and the persons to whom restitution must be paid. A permanent restitution order entered at the time of sentencing is part of the final judgment of sentence as defined in [section 814.6](#) and shall be considered in a properly perfected appeal. An appellate court shall not review or modify any issue related to a defendant's ability to pay unless the defendant has exhausted the defendant's remedies under [section 910.7](#) and obtained a ruling from the district court prior to the issue being raised in the appellate court.

9. If the full amount of restitution cannot be determined at the time of sentencing, the court shall issue a permanent restitution order setting forth the amount of restitution identified up to that time.

10. A permanent restitution order may be superseded by subsequent orders if additional or different restitution is ordered. A permanent restitution order entered after the time of sentencing shall only be challenged pursuant to [section 910.7](#).

[C75, 77, §789A.8; C79, 81, §907.12; [82 Acts, ch 1162, §4](#)]

[84 Acts, ch 1041, §1; 91 Acts, ch 219, §30; 94 Acts, ch 1142, §17; 97 Acts, ch 140, §4; 97 Acts, ch 177, §36; 2002 Acts, ch 1119, §197; 2003 Acts, ch 113, §4; 2010 Acts, ch 1124, §8, 9; 2020 Acts, ch 1074, §74, 83; 2021 Acts, ch 80, §377; 2021 Acts, ch 145, §8](#)

Referred to in [§321J.2, 462A.14, 815.14, 910.3B, 915.21, 915.94](#)

See Code editor's note on simple harmonization at the beginning of this Code volume

Subsections 7 and 8 amended

### **910.3A Notification of homicide victim's county of residence.**

The county attorney of a county in which a judgment of conviction and sentence under [section 707.2, 707.3, 707.4, 707.5, or 707.6A](#) is rendered against a defendant relating to a

person's death shall notify in writing the clerk of the district court of the county of the person's residence. Such notification shall be for the purpose of the county of the person's residence recovering from the defendant the fee and expenses incurred investigating the person's death pursuant to [section 331.802, subsection 2](#).

[96 Acts, ch 1139, §2](#)

#### **910.3B Restitution for death of victim.**

1. In all criminal cases in which the offender is convicted of a felony in which the act or acts committed by the offender caused the death of another person, in addition to the amount determined to be payable and ordered to be paid to a victim for pecuniary damages, as defined under [section 910.1](#), and determined under [section 910.3](#), the court shall also order the offender to pay at least one hundred fifty thousand dollars in restitution to the victim's estate if the victim died testate. If the victim died intestate the court shall order the offender to pay the restitution to the victim's heirs at law as determined pursuant to [section 633.210](#). The obligation to pay the additional amount shall not be dischargeable in any proceeding under the federal Bankruptcy Act. Payment of the additional amount shall have the same priority as payment of a victim's pecuniary damages under [section 910.2](#), in the offender's plan for restitution.

2. An award under [this section](#) does not preclude or supersede the right of a victim's estate or heirs at law to bring a civil action against the offender for damages arising out of the same facts or event. However, no evidence relating to the entry of the judgment against the offender pursuant to [this section](#) or the amount of the award ordered pursuant to [this section](#) shall be permitted to be introduced in any civil action for damages arising out of the same facts or event.

3. An offender who is ordered to pay a victim's estate or heirs at law under [this section](#) is precluded from denying the elements of the felony offense which resulted in the order for payment in any subsequent civil action for damages arising out of the same facts or event.

4. An award under [this section](#) made to the victim's estate or heirs at law shall not be reduced by any third-party payment, including any insurance payment, unless the offender is a named or covered insured.

[97 Acts, ch 125, §11; 2003 Acts, 1st Ex, ch 2, §63, 209; 2018 Acts, ch 1103, §1](#)

Referred to in [§915.100](#)

#### **910.4 Condition of probation — payment plan.**

1. When restitution is ordered by the sentencing court and the offender is placed on probation, restitution shall be a condition of probation.

a. Failure of the offender to comply with the plan of restitution, plan of payment, or community service requirements when community service is ordered by the court as restitution, shall constitute a violation of probation and shall constitute contempt of court.

b. If an offender fails to comply with restitution requirements during probation, the court may hold the offender in contempt, revoke probation, or extend the period of probation.

(1) If the court extends the period of probation, the period of probation shall not be for more than the maximum period of probation for the offense committed except for an extension of a period of probation as authorized in [section 907.7](#). After discharge from probation or after the expiration of the period of probation, as extended if applicable, the failure of an offender to comply with the plan of restitution shall constitute contempt of court.

(2) If an offender's probation is revoked, the offender's assigned probation officer shall forward to the director of the Iowa department of corrections all known information concerning the offender's restitution obligations, including but not limited to the plan of restitution, and any other pertinent information concerning or affecting restitution by the offender.

2. When the offender is committed to a county jail, or to an alternate facility, the office or individual charged with supervision of the offender shall prepare a restitution plan of payment and shall submit the plan to the court.

a. When community service is ordered by the court as restitution, the restitution plan of payment shall set out a plan to meet the requirement for the community service.

b. When there is a significant change in the offender's income or circumstances, the office or individual which has supervision of the restitution plan of payment shall submit a modified plan of payment to the court.

3. a. When there is a transfer of supervision from one office or individual charged with supervision of the offender to another, the sending office or individual shall forward to the receiving office or individual all necessary information regarding the balance owed against the original amount of restitution ordered and the balance of public service required.

b. If there has been a significant change in the offender's circumstances or income, the receiving office or individual shall submit a new restitution plan of payment to the sentencing court.

4. Notwithstanding any other provision in [this chapter](#), the plan of payment shall be based on all information pertinent to the offender's reasonable ability to pay. The first monthly payment under such a plan shall be made within thirty days of the approval of the plan.

[C75, 77, §789A.8; C79, 81, §907.12; [82 Acts, ch 1162, §5](#)]

[83 Acts, ch 56, §1](#); [89 Acts, ch 13, §1](#); [95 Acts, ch 127, §1](#); [96 Acts, ch 1193, §22](#); [2010 Acts, ch 1175, §3, 4](#); [2013 Acts, ch 30, §231](#); [2020 Acts, ch 1074, §75 – 77, 83](#)

#### **910.5 Condition of work release or parole.**

1. a. When an offender is committed to the custody of the director of the Iowa department of corrections pursuant to a sentence of confinement, the sentencing court shall forward to the director a copy of the offender's restitution plan, present restitution payment plan if any, and other pertinent information concerning or affecting restitution by the offender.

b. If the offender is committed to the custody of the director after revocation of probation, all information regarding the offender's restitution plan shall be forwarded by the offender's probation officer.

c. An offender committed to a penal or correctional facility of the state shall make restitution while placed in that facility.

d. Upon commitment to the custody of the director of the Iowa department of corrections, the director or the director's designee shall prepare a restitution plan of payment or modify any existing plan of payment.

(1) The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment, and family circumstances.

(2) The director or the director's designee may modify the plan of payment at any time to reflect the offender's present circumstances.

e. After the expiration of the offender's sentence, the failure of an offender to comply with the plan of restitution ordered by the court shall constitute contempt of court.

2. If an offender is to be placed on work release from an institution under the control of the director of the Iowa department of corrections, restitution shall be a condition of work release.

a. The chief of the bureau of community correctional services of the Iowa department of corrections shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment.

(1) The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment, and family circumstances.

(2) The bureau chief may modify the plan of payment at any time to reflect the offender's present circumstances.

b. Failure of the offender to comply with the restitution plan of payment, including the community service requirement, if any, shall constitute a violation of a condition of work release and the work release privilege may be revoked.

c. After the expiration of the offender's sentence, the failure of an offender to comply with the plan of restitution ordered by the court shall constitute contempt of court.

3. If an offender is to be placed on work release from a facility under control of a county sheriff or the judicial district department of correctional services, restitution shall be a condition of work release.

a. The office or individual charged with supervision of the offender shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment.

(1) The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment and family circumstances.

(2) Failure of the offender to comply with the restitution plan of payment including the community service requirement, if any, constitutes a violation of a condition of work release.

(3) The office or individual charged with supervision of the offender may modify the plan of restitution at any time to reflect the offender's present circumstances.

b. After the expiration of the offender's sentence, the failure of an offender to comply with the plan of restitution ordered by the court shall constitute contempt of court.

4. If an offender is to be placed on parole, restitution shall be a condition of parole.

a. The district department of correctional services to which the offender will be assigned shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment.

(1) The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment, and family circumstances.

(2) Failure of the offender to comply with the restitution plan of payment including a community service requirement, if any, shall constitute a violation of a condition of parole.

(3) The parole officer may modify the plan of payment any time to reflect the offender's present circumstances.

(4) A restitution plan of payment or modified plan of payment, prepared by a parole officer, must meet the approval of the director of the district department of correctional services.

b. After the expiration of the offender's sentence, the failure of an offender to comply with the plan of restitution ordered by the court shall constitute contempt of court.

5. The director of the Iowa department of corrections shall adopt rules pursuant to [chapter 17A](#) concerning the policies and procedures to be used in preparing and implementing restitution plans of payment for offenders who are committed to an institution under the control of the director of the Iowa department of corrections, for offenders who are to be released on work release from institutions under the control of the director of the Iowa department of corrections, for offenders who are placed on probation, and for offenders who are released on parole.

[C75, 77, §789A.8; C79, 81, §907.12; [82 Acts, ch 1162, §6](#)]

[83 Acts, ch 56, §2](#); [83 Acts, ch 96, §154, 159](#); [95 Acts, ch 127, §2, 3](#); [96 Acts, ch 1193, §23](#)

#### **910.6 Payment plan — copy to victims.**

An office or individual preparing a restitution plan of payment or modified plan of payment shall forward a copy to the clerk of court in the county in which the offender was sentenced. The clerk of court shall forward a copy of the restitution plan of payment or modified plan of payment to the victim or victims.

[C75, 77, §789A.8; C79, 81, §907.12; [82 Acts, ch 1162, §7](#)]

[83 Acts, ch 56, §3](#); [2020 Acts, ch 1074, §78, 83](#)

Referred to in [§915.94](#)

#### **910.7 Petition for hearing — appellate review.**

1. At any time during the period of probation, parole, or incarceration, the offender, the prosecuting attorney, or the office or individual who prepared the offender's restitution plan may petition the court on any matter related to the plan of restitution or restitution plan of payment and the court shall grant a hearing if on the face of the petition it appears that a hearing is warranted.

2. After a petition has been filed, the court, at any time prior to the expiration of the offender's sentence, provided the required notice has been given pursuant to [subsection 3](#),

may modify the plan of restitution or the restitution plan of payment, or both, and may extend the period of time for the completion of restitution.

3. If a petition related to a plan of restitution has been filed, the offender, the prosecuting attorney, the department of corrections if the offender is currently confined in a correctional institution, the office or individual who prepared the offender's restitution plan, and the victim shall receive notice prior to any hearing under [this section](#).

4. An appellate court shall not review or modify an offender's plan of restitution, restitution plan of payment, or any other issue related to an offender's restitution under [this subsection](#), unless the offender has exhausted the offender's remedies under [this section](#) and obtained a ruling from the district court prior to the issue being raised in the appellate courts.

5. Appellate review of a district court ruling under [this section](#) shall be by writ of certiorari.

[C75, 77, §789A.8; C79, 81, §907.12; [82 Acts, ch 1162, §8](#)]

[83 Acts, ch 56, §4](#); [86 Acts, ch 1075, §6](#); [2001 Acts, ch 133, §1](#); [2020 Acts, ch 1074, §79, 80, 83](#)

Referred to in [§910.2A, 910.2B, 910.3](#)

#### **910.7A Judgment — enforcement.**

1. An order requiring an offender to pay restitution constitutes a judgment and lien against all property of a liable defendant for the amount the defendant is obligated to pay under the order and may be recorded in any office for the filing of liens against real or personal property.

2. A judgment of restitution may be enforced by the state, a victim entitled under the order to receive restitution, a deceased victim's estate, or any other beneficiary of the judgment in the same manner as a civil judgment.

[92 Acts, ch 1242, §37](#)

Referred to in [§232.147, 232.150, 915.28](#)

#### **910.8 Civil liability.**

[This chapter](#) and proceedings under [this chapter](#) do not limit or impair the rights of victims to sue and recover damages from the offender in a civil action. The institution of a restitution plan shall toll the applicable statute of limitations for a civil action arising out of the same facts or event for the period of time that the restitution plan is effective. However, any restitution payment by the offender to a victim shall be set off against any judgment in favor of the victim in a civil action arising out of the same facts or event.

[C75, 77, §789A.8; C79, 81, §907.12; [82 Acts, ch 1162, §9](#)]

[84 Acts, ch 1047, §1](#)

Referred to in [§232.147, 232.150, 915.28](#)

#### **910.9 Collection of payments — payment by clerk of court.**

1. An offender making restitution pursuant to a restitution plan of payment shall make the payment monthly to the clerk of court of the county from which the offender was sentenced, unless the restitution plan of payment provides otherwise. If the restitution plan authorizes payment to an entity other than the clerk of court, that entity shall regularly file a partial or full satisfaction of judgment with the clerk of court concerning amounts collected by that entity.

2. The clerk of court shall maintain a record of all receipts and disbursements of restitution payments and shall disburse all moneys received to the victims designated in the plan of restitution. If there is more than one victim, disbursements to the victims shall be on the basis of the victim's percentage of the total owed by the offender to all victims, except that the clerk of court may decide the allocation of payments owed to a victim of twenty-five dollars or less.

3. Category "A" restitution and category "B" restitution shall not be withheld by the clerk of court until all pecuniary damages to victims have been paid in full. Payments to victims shall be made by the clerk of court at least quarterly. Payments by a clerk of court shall be made no later than the last business day of the quarter, but may be made more often at the discretion of the clerk of court. The clerk of court receiving final payment from an offender shall notify all victims that full restitution has been made. Each office or individual charged with supervising an offender who is required to perform community service as full or partial restitution shall keep records to assure compliance with the portions of the plan of restitution

and restitution plan of payment relating to community service and, when the offender has complied fully with the community service requirement, notify the sentencing court.

[82 Acts, ch 1162, §10]

83 Acts, ch 56, §5; 91 Acts, ch 116, §22; 94 Acts, ch 1142, §18; 97 Acts, ch 177, §37; 98 Acts, ch 1100, §90; 2000 Acts, ch 1032, §7; 2002 Acts, ch 1119, §198; 2003 Acts, ch 113, §5; 2018 Acts, ch 1041, §127; 2020 Acts, ch 1074, §81, 83

#### **910.10 Restitution lien.**

1. The state or a person entitled to restitution under a court order may file a restitution lien.

2. The restitution lien shall set forth all of the following information, if known:

a. The name and date of birth of the person whose property or other interests are subject to the lien.

b. The present address of the residence and principal place of business of the person named in the lien.

c. The criminal proceeding pursuant to which the lien is filed, including the name of the court, the title of the action, and the court's file number.

d. If applicable, any juvenile delinquency proceeding pursuant to which the lien is filed, including only the name of the court, the title of the action, and the court's file number.

e. The name and business address of the attorney representing the state in the proceeding pursuant to which the lien is filed or the name and residence and business address of each person entitled to restitution pursuant to a court order.

f. A statement that the notice is being filed pursuant to [this section](#).

g. The amount of restitution the person has been ordered to pay or is likely to be ordered to pay.

3. A restitution lien may be filed by any of the following:

a. A prosecuting attorney in a criminal proceeding in which restitution is likely to be sought after the filing of an information or indictment. At the time of arraignment, the prosecuting attorney shall give the defendant notice of any restitution lien filed.

b. A victim in a criminal proceeding after restitution is determined and ordered by the trial court following pronouncement of the judgment and sentence.

c. A victim in a juvenile delinquency proceeding after restitution has been determined and ordered by the juvenile court and the juvenile offender has been discharged from the jurisdiction of the juvenile court due to reaching the age of eighteen years.

4. The filing of a restitution lien in accordance with [this section](#) creates a lien in favor of the state and the victim in any personal or real property identified in the lien to the extent of the interest held in that property by the person named in the lien.

5. [This section](#) does not limit the right of the state or any other person entitled to restitution to obtain any other remedy authorized by law.

91 Acts, ch 219, §31; 2006 Acts, ch 1164, §4, 5; 2007 Acts, ch 22, §108

Referred to in §232.147, 232.150, 915.28

#### **910.11 through 910.14 Reserved.**

#### **910.15 Distribution of moneys received as result of commission of crime.**

1. *Definitions.* As used in [this section](#), unless the context otherwise requires:

a. "*Convicted felon*" means a person initially convicted, or found not guilty by reason of insanity, of a felony committed in Iowa, either by a court or jury trial or by entry of a guilty plea in court.

b. "*Escrow account*" includes, but is not limited to, property in which the attorney general has assumed the powers of a receiver as provided in [this section](#).

c. "*Felony*" means a felony defined by any Iowa or United States statute.

d. "*Fruits of the crime*" means any profit which, were it not for the commission of the felony, would not have been realized.

e. "*Proceeds*" means all of the fruits of the crime from whatever source received by or owing to a felon or the felon's representatives, whether earned, accrued, or paid before or

after the conviction. It includes any interest, earnings, or accretions upon proceeds, and any property received in exchange for proceeds.

f. “*Representative of the convicted felon*” means any person or entity receiving proceeds by designation of that convicted felon, or on behalf of that convicted felon, or in the stead of that convicted felon, whether by the felon’s designation or by operation of law.

g. “*Victim*” means a person who has suffered physical, mental, or emotional harm or financial loss as the result of a felony committed in this state, for which the felon was convicted. The term also includes the father, mother, son, or daughter of a victim who died or was rendered incompetent as a result of the offense or who was under eighteen years of age at the time of the offense.

2. *Due process hearing — action by attorney general.*

a. The attorney general may bring an action to require all proceeds received by a convicted felon or representative of the convicted felon to be deposited in an escrow account as provided in [this section](#).

b. The action may be brought in the county where the convicted felon resides, or the county in which the proceeds are located.

c. The action shall be preceded by notice to any interested party.

d. The court shall order that all proceeds be deposited in the escrow account until an order of disposition is made by the court pursuant to [subsection 3, 4, or 5](#) or until the expiration of the escrow account as specified in [subsection 8](#), if the attorney general proves both of the following:

(1) The proceeds are fruits of the crime for which the convicted felon was convicted.

(2) It is more probable than not that there are victims who may recover a money judgment against the felon for physical, mental, or emotional injury or pecuniary loss proximately caused by the convicted felon as a result of the felony for which the felon was convicted or there is an unpaid order of restitution under [this chapter](#) against the convicted felon for the felony for which the felon was convicted.

e. If the court orders that proceeds be deposited in an escrow account and the nature of the proceeds to the person initially convicted of the crime is such that it cannot be placed in an escrow account, the attorney general shall assume the powers of a receiver under [chapter 680](#) in taking charge of the property for benefit of and payable to any victim or representative of the victim. In those instances, the date the attorney general assumed the power of a receiver shall be considered the date the escrow account was established for purposes of [this section](#).

3. *Notice of establishment of escrow account.* Once an escrow account is established, the attorney general shall make reasonable efforts to notify victims and representatives of victims of the escrow account and their possible rights under [this section](#). The reasonable efforts shall include, but are not limited to, mailing the notification to known victims or representatives of known victims. The cost of notification shall be paid from the escrow account or from the sale of property held in receivership.

4. *Proceeds for legal defense of felon.* The attorney general shall make payments from the escrow account or property held in receivership to the person accused of the crime upon the order of a court of competent jurisdiction after a showing by the person that the money or other property shall be used for the exclusive purpose of retaining legal representation at any stage of the criminal proceedings against the person, including the appeals process.

5. *Payment of escrow funds to victims.* The remaining proceeds in escrow may be levied upon to satisfy an order for restitution under [this chapter](#) or a money judgment entered against the convicted felon, by a court of competent jurisdiction, for physical, mental, or emotional injury, or pecuniary loss proximately caused by the convicted felon as a result of the felony for which the felon was convicted.

6. *Priority and proration of claims.* Proceeds distributed under [subsection 3](#) shall have first priority, and proceeds distributed for the cost of legal defense under [subsection 4](#) shall have second priority in the distribution of proceeds in the escrow account. If there are multiple orders for restitution and judgments by victims under [subsection 5](#) against the convicted felon, and the remaining proceeds in the escrow account are insufficient to satisfy all of the orders for restitution and judgments, the proceeds shall be distributed on a pro rata basis based on the ratio that the amount of an order for restitution or an individual victim’s

judgment bears to the total amount of all restitution orders and victims' judgments against the convicted felon which have been claimed under [this section](#).

7. *Limitation of action.* Notwithstanding [section 614.1](#), a victim or the victim's representative who has a cause of action for a crime for which an escrow account or receivership is established pursuant to [this section](#) may bring the action against the escrow account or against the property in receivership within five years of the date the escrow account is established.

8. *Duration of escrow account.* Notwithstanding the other provisions of [this section](#), upon a disposition of charges favorable to the person accused of committing the felony, or upon a showing by the person that five years have elapsed from the date of establishment of the escrow account and further that no actions are pending against the person or unpaid orders for restitution or monetary judgments outstanding relating to the felony for which the felon was convicted, the attorney general shall immediately pay over any money in the escrow account to the person.

9. *Purpose.* The purpose of [this section](#) is to meet the following compelling state interests:

a. The state has an interest in ensuring that victims of crime are compensated by those who harm them.

b. The state has an interest in ensuring that criminals do not profit from their felonious crimes at the expense of their victims.

[82 Acts, ch 1155, §1]

92 Acts, ch 1154, §1; 2007 Acts, ch 22, §109, 110

Referred to in §261.87, 915.100