

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](#)

NEW section