

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

State of Arkansas

As Engrossed: S1/25/01 S3/8/01

83rd General Assembly

A Bill

Regular Session, 2001

SENATE BILL 9

By: Senator DeLay

For An Act To Be Entitled

AN ACT CONCERNING VICTIM RESTITUTION.

Subtitle

AN ACT CONCERNING VICTIM RESTITUTION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code 5-4-205(a), concerning restitution, is amended to read as follows:

(a)(1) A defendant who is found guilty or who enters a plea of guilty or nolo contendere may be ordered to restitution. If the court decides not to order restitution, or orders restitution of only a portion of the loss suffered by the victim, it shall state on the record in detail the reasons therefor.

(2)(A) The sentencing authority, whether the trial court or a jury, shall make a determination of actual economic loss caused to a victim by the crime.

(B) When an offense has resulted in bodily injury to a victim, a restitution order entered under this section may require that the defendant:

(i) Pay the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a recognized method of healing;

(ii) Pay the cost of necessary physical and occupational therapy and rehabilitation;

(iii) Reimburse the victim for income lost by the

1 victim as a result of the offense. The maximum that a victim may recover for
2 lost income is fifty thousand dollars (\$50,000); and

3 (iv) In the case of an offense which resulted in
4 bodily injury that also resulted in the death of a victim, pay an amount equal
5 to the cost of necessary funeral and related services.

6 (C) When an offense has not resulted in bodily injury to a
7 victim, a restitution order entered under this section may require that the
8 defendant reimburse the victim for income lost by the victim as a result of
9 the offense.

10 (3)(A) The determination of the amount of loss is a factual
11 question to be decided by the preponderance of the evidence presented to the
12 sentencing authority during the sentencing phase of a trial.

13 (B) The amount may be decided by agreement between a
14 defendant and the victim represented by the prosecuting attorney.

15 (4) If any of the items listed in subdivision (a) (2) (B) have
16 been paid by the Crime Victims Reparations Board and the court orders
17 restitution, the restitution order shall provide that the Crime Victims
18 Reparations Board is to be reimbursed by the defendant.

19 (5) As used in this section and in any provision of law relating
20 to restitution "victim" means each person, partnership, or corporation who
21 suffers property damage or loss, monetary expense, or physical injury or death
22 as a direct or indirect result of the defendant's offense or criminal episode,
23 and also includes the victim's estate if the victim is deceased, and the
24 victim's next of kin if the victim is deceased as a result of the offense.

25 (6) A record of a defendant shall not be expunged under §§ 16-90-
26 901 through 16-90-906 until all court ordered restitution has been paid.

27 /s/ DeLay
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