

§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).

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