

## Restitution Hearings

If you have been subpoenaed to appear at a restitution hearing, it is because the juvenile has chosen to exercise his right to challenge the amount of restitution you are requesting. You should know that a restitution hearing is solely on the issue how much the court is going to order the youth to pay as part of their probation sentence.

Restitution may be whole or part of the amount you believe you should recoup. The court sets the figure based on a number of factors including, the youth's ability to pay, the actual damage the victim suffered, and the fair market value of the item. The court is not required to order restitution, and you may elect not to receive it.

As restitution is a condition of probation, it is often paid throughout the course of the probation sentence. Most juvenile court sentences are between 12-24 months long. This means that you could go a very long time without payment. Also, restitution payments cannot be made when the youth is incarcerated.

Q: What should I bring to the hearing?

A: You should plan on bringing whatever proof you have that establishes your loss. For example, if you had a window broken, you would need to bring proof of repair (or an estimate) or replacement. If you have not yet had the item repaired, an estimate will be okay. Remember, the court will give you the fair market value of the item, not the replacement cost. The court must factor in the age of the item, any wear and tear, etc.

Q: What about my insurance?

A: If you have insurance that would cover this loss, you will only be entitled to the amount of the deductible that you have to pay. Should you choose not to file on your insurance, you may still be limited to recovering only your deductible amount. The Juvenile Court of Houston County does not collect restitution on behalf of insurance companies. They have the ability to file claims in civil court.

Q: Why am I not receiving any payments?

A: Juveniles may have up to the entire length of their probation/supervision to complete the requirement of paying restitution. If several months have gone by and you have not heard anything please contact HODAC or the DA's Office and we can check into it for you. Probation/Supervision can be extended to insure restitution is satisfied.

Q: Will the juvenile be sending payments to me?

A: No. The Clerk of Courts for the Juvenile Court will collect all money owed and distribute it to the victim. Payment is only accepted in cash or money order. Payment to the victim will be sent in the mail by check. Payment to victim may come in one lump sum or several small payments. Please make sure you notify the Clerk's office (478-542-2060) or HODAC if your address has changed.

Q: My son did some damage to a building and I just got a letter saying he owes \$500 dollars. I think that amount is too high. What can I do?

A: You are entitled to request a restitution hearing if you dispute the amount that is owed. At the hearing the judge will only be listening to evidence concerning the damage to the property. If the parties can agree on a different amount or if the judge changes the amount, at that point the restitution amount will be set. Payments should be made on a monthly basis.

Q: Where do I make my payments? Do you take Debit/Credit Cards?

A: Payments must be made at the Juvenile Court Building located at 206 Carl Vinson Parkway Warner Robins, GA 31088. Payments must be in cash or money orders. Sorry, we do not accept Debit/Credit cards at this time.

Q: What about civil court (Filing a lawsuit against the child and/or his parent)?

A: If you do not wish to wait for restitution, you may want to consider filing a claim against the child and his parent in the Magistrate Court of Houston County. This is our small claims court. You may wish to consult with an attorney before proceeding. Under O.C.G.A. § 51-2-3, the parents of a minor child may be held liable when their child acts maliciously and willfully and damages or injury result.

Q: My son and his friends destroyed a building, only my son got caught. How much restitution does he have to pay?

A: Under Georgia law, co-defendants (or co-juvenile offenders) are jointly and severally liable for restitution owed. What this basically means is that each co-defendant is equally responsible for the damage up until the point that victim is repaid. This means that if only one co-defendant is ordered to pay restitution, they are responsible for 100 percent. The law would expect the co-defendants to work out repayment amongst themselves once the victim has been paid.

Q: Why can't you just make the parents pay?

A: Under Georgia law, some responsibility to pay may eventually fall on the shoulders of the parents. The problem is, that could take a long time. If the child is unable to pay, odds are so are the parents.

Q: What about my probation/supervision fees? I can't afford to pay both...

A: You are required as a condition of your probation to pay both your supervision fees and your restitution. Money you pay to the court will go to satisfy your restitution requirement first, but you will still be required to pay your supervision fees (unless there is a modification of your court order).

Q: What about my pain and suffering?

A: Pain and suffering are not something that are included in restitution. If you wish to seek pain and suffering it is recommended that you file a civil law suit.

Q: I am the victim, do I need a lawyer for the restitution hearing?

A: The decision to have an attorney is up to you. If you would like your attorney to be present, they would need to file an entry of appearance with the Juvenile Court and also contact the DA's office.