



Dear Colleague,

Restitution is ordered in roughly 15% of the tens of thousands of federal criminal convictions each year. Restitution is intended to be a compensatory, not punitive, component of a defendant's sentence. Too often, however, the restitution imposed is unfairly onerous, disproportionate to the harm actually caused by the person, and unsupported by the evidence.

A recent Government Accountability Office study found that an average of \$1 billion in restitution is ordered by federal courts each year. The same report found that Americans collectively owe \$110 billion in ordered restitution, but that the vast majority, \$100 billion, is considered uncollectible due to impacted persons' inability to pay.

Even after a person has served their prison sentence, many restitution orders make it difficult for a person to start their life again, to care for their family and dependents, and even to make the required restitution payments. Many people who have served short sentences for crimes are burdened years and even decades later by restitution requirements. Restitution can become a "life sentence."

For decades, every change in the federal restitution law has made it more punitive and less fair to defendants. That's why Ladies of Hope Ministries has partnered with the National Association of Criminal Defense Lawyers to draft the Fairness in Restitution (FIR) Act.

The FIR Act would improve federal restitution law by:

1. Ensuring fairness, proportionality, and accuracy in the amount of restitution owed.

- Require that the Government show actual loss sustained by a victim as a direct and proximate result of the defendant's actions.
- Eliminate joint and several liability and ensure that defendants are only responsible for financial losses they themselves caused.
- Provide a right to an evidentiary hearing for proving or disproving the amounts included in a restitution order.

2. Preventing restitution obligations from becoming overly onerous or lengthy.

- Change the statutory period of liability from 20 years to 10 years and prevent extensions, which are not authorized under current law but often permitted by courts.
- Allow courts to consider the economic circumstances of a defendant so that defendants are not burdened with unfair and unrealistic restitution requirements.
- Prevent the seizing or garnishing of wages, benefits, or certain other amounts if it would render the defendant poor enough to qualify for the appointment of counsel under federal guidelines.
- Allow defendants to petition for a change in their restitution order if their economic circumstances change.

3. Helping victims recover while also helping defendants avoid burdensome debts.

- Require that any amounts collected by the Government first go to satisfaction of a restitution order, in cases where both restitution and forfeiture are required.
- Allow settlements of restitution obligations, which would guarantee an amount of restitution for victims instead of the false promise of unrealistic restitution orders.
- Exempt any reduction in restitution amount owed from being counted as income for tax purposes.

We hope you will join us in this effort to improve this often-overlooked area of federal criminal law that is in urgent need of reform. Please reach out to your contacts at either of our organizations to become a part of our coalition fighting for Fairness In Restitution.

Respectfully,

Ladies of Hope Ministries

National Association of Criminal Defense Lawyers