
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 662 **Hearing Date:** June 20, 2017
Author: Choi
Version: April 18, 2017
Urgency: No **Fiscal:** Yes
Consultant: SC

Subject: *Restitution: Tracking*

HISTORY

Source: Author

Prior Legislation: SB 1054 (Pavley), Ch. 718, Stats. 2016
SB 419 (Block), Ch. 513, Stats. 2014
SB 1197 (Pavley), Ch. 517, Stats. 2014
SB 1210 (Lieu), Ch. 762, Stats. 2012

Support: Crime Victims United

Opposition: None known

Assembly Floor Vote: 69 - 0

PURPOSE

The purpose of this bill is to require local collection agencies tasked with collecting victim restitution to track payments and to notify the defendant and the victim about the status of payments.

Existing law states that, in addition to any other penalty provided or imposed under the law, the court shall order the defendant to pay both a restitution fine and restitution to the victim or victims, if any. (Pen. Code § 1202.4, subd. (a)(3).)

Existing law specifies that a restitution order is enforceable by the victim as a civil judgment. (Pen. Code, §§ 1202.4, subd. (i), & 1214, subd. (b).)

Existing law gives counties the authority to collect court-ordered restitution from individuals under local supervision. (Pen. Code, §§ 2085.5 & 2085.6.)

Existing law authorizes the agency designated by the board of supervisors in the county of incarceration to deduct 20% to 50% from the wages and trust account deposits of a county-jail inmate serving a sentence under realignment and owing a restitution fine or restitution order. (Pen. Code, § 2085.5, subds. (b)(1) & (c).)

Existing law allows the agency designated by the board of supervisors in the county of incarceration to withhold an administrative fee totaling 10% of money collected to be held in a

special deposit account for the purposes of reimbursing administrative and support costs of the restitution program, as specified. (Pen. Code, § 2085.5, subd. (i).)

Existing law allows the agency designated by the board of supervisors to collect money from inmates released from jail after serving a sentencing under realignment who has an outstanding balance on a restitution fine or a victim restitution order. (Pen. Code, § 2085.5, subs. (g) & (h).)

Existing law authorizes the agency designated by the board of supervisors to collect unsatisfied restitutions fines and victim restitution order from persons released on postrelease community supervision (PRCS), or mandatory supervision. (Pen. Code, § 2085.6, subs. (a) & (b).)

Existing law gives the board of supervisors discretion to impose an administrative fee not to exceed 10% of the amount collected, the proceeds of which shall be deposited into the county's general fund. (Pen. Code, § 2085.6, subd. (d).)

Existing law provides that any portion of a restitution fine or fee or a victim restitution order that remains unsatisfied after a defendant is no longer on probation, parole, PRCS, or mandatory supervision is enforceable by the California Victim Compensation Board. (Pen. Code, § 1214, subs. (a) & (b).)

Existing law allows a local collection program to continue to enforce restitution orders and fines once a defendant is no longer on probation, PRCS, or mandatory supervision. (Pen. Code, § 1214, subs. (a) & (b).)

Existing law provides that fines, state or local penalties, bail, forfeitures, restitution fines, restitution orders, or any other amounts imposed by the superior court for criminal offenses can be referred to the Franchise Tax Board (FTB) for collection under guidelines prescribed by the FTB no sooner than 90 days after the payments become delinquent. (Rev. & Tax Code, § 19280.)

This bill requires local collection agencies tasked with collecting victim restitution to track payments, and to provide monthly notices to the defendant, and quarterly notices to the victim detailing the status of the restitution order.

COMMENTS

1. Need for This Bill

According to the author:

Current law (Penal Code 2085.5 and 2085.6) calls for the collection of restitution once a victim has a restitution order.

However, State law is currently silent as to the tracking and noticing of such restitution payments for both the victim and the person owing the restitution.

AB 662 calls for a restitution notice and tracking process to protect both the individual owing the restitution and the victim.

Tracking shall include sending monthly notices to the individual responsible for paying the restitution to the victim. Victims shall also be provided a quarterly statement delineating the repayment status of their restitution order(s).

AB 662 offers a means for tracking restitution and noticing both parties involved as to the payment status of the restitution order. AB 662 protects BOTH the individual owing restitution and the victim.

Having this mechanism in place serves both the offender and the victim so that disputes are minimized. This measure will initiate fairness for both the individual owing restitution and the victim.

2. Collection Procedures

There are several Penal Code provisions which provide a framework for collecting outstanding victim restitution from defendants.

Penal Code section 2085.5 is a garnishment statute which allows CDCR to deduct a percentage of the inmate's wages and trust deposits to go toward satisfying the restitution order, and the balance then goes into the inmate's account. The statute previously applied to prisoners and parolees in the custody of CDCR.

Penal Code section 2085.5 was amended to allow the garnishment of wages and trust account deposits from realigned felons serving a sentence in county jail rather than prison. (See SB 1210 (Lieu), Chapter 762, Statutes of 2012.) Rather than CDCR garnishing the wages and trust accounts, a local agency chosen by the county board of supervisors is allowed to collect monies owed on restitution fines and victim restitution orders while the inmate is incarcerated. Similarly, Penal Code section 2085.6 authorizes collection by a local agency from persons released from prison and placed on post-release community supervision, and those released from county jail on mandatory supervision.

Another related but distinct collection statute is Penal Code section 1214. This provision permits the collection of outstanding restitution fines and fees after a defendant has been released not only from custody, but also from all forms of supervised release, including probation, PRCS, and mandatory supervision. SB 419 (Block), of the 2013-2014 legislative session, amended this statute to allow for the continued collection of outstanding restitution fines and order when a person completes a county jail term under realignment which is not followed by a term of supervision upon release.

This bill specifies that the local collecting entity must track victim restitution payment and send notices to both the defendant and the victim regarding the status of restitution payments.