

---

## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair  
2025 - 2026 Regular

---

**Bill No:** AB 1213      **Hearing Date:** June 10, 2025  
**Author:** Stefani  
**Version:** March 19, 2025  
**Urgency:** No      **Fiscal:** Yes  
**Consultant:** SU

**Subject:** *Restitution: priority*

### HISTORY

**Source:** San Francisco District Attorney

**Prior Legislation:** AB 1186 (Bonta), Ch. 805, Stats. of 2024  
AB 855 (Jackson), held in Assembly Rev. & Tax, 2024  
AB 1257 (Baker), held in Assembly Appropriations, 2017  
SB 1197 (Pavley), Ch. 517, Stats. of 2014

**Support:** California District Attorneys Association; Chief Probation Officers' of California;  
San Francisco District Attorney's Office

**Opposition:** None known

**Assembly Floor Vote:** 76 - 0

### PURPOSE

***The purpose of this bill is to clarify that an order for victim restitution has priority over all other fines and fees associated with a criminal conviction and shall be paid first.***

*Existing law* states that it is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer. (Cal. Const., art. I, § 28, subd. (b)(13)(A).)

*Existing law* provides that restitution shall be ordered from the convicted wrongdoer in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss. (Cal. Const., art. I, § 28, subd. (b)(13)(B).)

*Existing law* requires the court to order the defendant to pay victim restitution in every case in which a victim has suffered an economic loss as a result of the defendant's conduct. (Pen. Code, § 1202, subd. (f).)

*Existing law* states that economic losses include, but are not limited to, the following: full or partial payment for the value of stolen or damaged property; medical expenses; mental health counseling expenses; wages or profits lost due to injury incurred by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, while

caring for the injured minor; wages or profits lost by the victim, due to time spent as a witness or in assisting the police or prosecution. (Pen. Code, § 1202.4, subd. (f)(3).)

*Existing law* prohibits consideration of a defendant's inability to pay in determining the amount of a restitution order. (Pen. Code § 1202.4, subd. (g).)

*Existing law* authorizes the victim to enforce the restitution order as a civil judgment. (Pen. Code, § 1202.4, subd. (i).)

*Existing law* provides that in determining the amount and manner of disbursement under an order made pursuant to the Penal Code requiring a defendant to make reparation or restitution to a victim of a crime, to pay any cost of jail or other confinement, or to pay any other reimbursable costs, the court, after determining the amount of any fine and penalty assessments, and a county financial evaluation officer when making a financial evaluation, shall first determine the amount of restitution to be ordered paid to any victim, and shall determine the amount of the other reimbursable costs. (Pen. Code, § 1203.1d, subd. (a).)

*Existing law* states that with respect to installment payments and amounts collected by the Franchise Tax Board the board of supervisors shall provide that disbursements be made in the following order of priority:

- Restitution ordered to, or on behalf of, the victim pursuant to subdivision (f) of Section 1202.4.
- The state surcharge ordered pursuant to Section 1465.7.
- Any fines, penalty assessments, and restitution fines ordered pursuant to subdivision (b) of Section 1202.4. Payment of each of these items shall be made on a proportional basis.
- Any other reimbursable costs.

*Existing law* requires the California Department of Corrections and Rehabilitation (CDCR) to deduct a percent of an incarcerated person's wages and monies in their trust account if they owe a restitution fine or a restitution order, and requires the department to collect the restitution order first in the event the person owes both. (Pen. Code, § 2085.5, subs. (a), (c), & (g).)

*Existing law* authorizes, when a person is serving a sentence in the county jail, the agency designated by the board of supervisors to deduct from the incarcerated person's wages and trust account if they owe a restitution fine or a restitution order, and requires the agency to collect the restitution order first in the event the person owes both. (Pen. Code, § 2085.5, subs. (b), (d), & (h).)

*Existing law* authorizes collection of victim restitution and the restitution fine from a parolee and provides that the restitution order may be collected first. (Pen. Code, § 2085.5, subs. (e), (f), & (i).)

*Existing law* authorizes the collection of victim restitution and the restitution fine from an individual on post-release community supervision, and provides that if the county elects to collect these, then the restitution order shall be collected before the restitution fine. (Pen. Code, § 2085.6, subs. (a), (b), & (d).)

*This bill* clarifies that a victim restitution order shall be paid before all fines, restitution fines, penalty assessments, and other fees imposed on a criminal defendant.

*This bill* states legislative intent that no other debt owed by a criminal defendant be satisfied before victim restitution is satisfied first.

*This bill* names these provisions the Restitution First Act.

## COMMENTS

### 1. Need for This Bill

According to the author:

California's Constitution enshrines the rights of victims of crime in California. Among those is the right to receive restitution and that "all monetary payments, monies, and properties collected from any person who has been ordered to make restitution shall be first applied to pay the amounts ordered as restitution to the victim. However, our Penal Code has yet to carry that constitutional command into practice.

AB 1213 will make clear that victims in California remain at the forefront of our consideration and will statutorily mandate that victim restitution orders have priority over any fines, fees, or penalty assessments imposed in conjunction with a criminal conviction. While restitution cannot undue the harm a victim has suffered, it is often the first step in a victim's healing journey. This bill will carry our Constitution's command into effect and places a victim's restitution order first in priority for satisfaction.

### 2. Victim Restitution

The purpose of victim restitution is to reimburse the victim for economic loss caused by the crime. (*People v. Giordano* (2007) 42 Cal.4th 644, 652.) In 1982, California voters passed Proposition 8, the Victims' Bill of Rights, which added article I, section 28, subdivision (b) to the California Constitution, which gives victims the right to seek and secure restitution from the persons convicted of the crimes causing the loss that they suffer. (*People v. Gross* (2015) 238 Cal.App.4th 1313, 1317-1318.) "A victim's right to restitution is, therefore, a constitutional one; it cannot be bargained away or limited, nor can the prosecution waive the victim's right to receive restitution." (*Ibid.*)

As directed by the voters, the Legislature enacted Penal Code section 1202.4 to implement the Victims' Bill of Rights. (*Gross, supra*, 238 Cal.App.4th at p. 1318; *People v. Seymour* (2015) 239 Cal.App.4th 1418, 1435.) This statute provides that "in every case in which a victim has suffered economic loss as a result of the defendant's conduct, the court shall require that the defendant make restitution to the victim or victims in an amount established by court order." (Pen. Code, § 1202.4, subd. (f).) The statute further provides that a "defendant's inability to pay shall not be a consideration in determining the amount of a restitution order." (Pen. Code, § 1202.4, subd. (g).) Rather, victim restitution orders must be of a dollar amount that is sufficient

to fully reimburse the victim, which can include an assortment of expenses such as medical expenses, mental health counseling expenses, wages or lost profits, noneconomic losses like psychological harm, actual and reasonable attorney's fees, and relocation fees. The victim restitution order must also include interest at the rate of 10% per annum. (Pen. Code, § 1202.4, subd. (f)(3)(G).)

Payment of victim restitution goes directly to the victim and compensates them for economic losses they have suffered because of the defendant's crime, i.e., to make the victim reasonably whole. (*People v. Guillen* (2013) 218 Cal.App.4th 975, 984.) A victim restitution order is an enforceable civil money judgment, and typical post-judgment enforcement tools are available to the victim. (Pen. Code, § 1202.4, subd. (i).) Victims have access to all available resources to enforce the order, including wage garnishment and lien procedures, even if the defendant is no longer in custody or on supervision. (*Ibid.*)

### **3. Prioritization of Court Ordered Debt**

Several existing statutes prioritize the order in which delinquent court-ordered debt received is to be satisfied. For example, Penal Code section 1203.1d directs the Franchise Tax Board to disburse monies in the following order of priority: 1) victim restitution, 2) state surcharge, 3) restitution fines, penalty assessments, and other fines, with payments made on a proportional basis to the total amount levied for all of these items, and, 4) state/county/city reimbursements, and special revenue items. (See Pen. Code, § 1203.1d.) Similarly, Penal Code section 2085.5 directs CDCR to first collect victim restitution before collecting a restitution fine from an incarcerated person's wages or trust account. The same is true for individuals serving a sentence in county jail pursuant to Criminal Justice Realignment. (Pen. Code, § 2085.5.)

Consistent with these existing mandates regarding the manner of disbursements, this bill specifies within the restitution statute itself that a victim restitution order shall be paid before all fines, restitution fines, penalty assessments, and other fees imposed on a criminal defendant.

### **4. Argument in Support**

According to the San Francisco District Attorney's Office, the sponsor of this bill:

AB 1213 will carry our Constitution's command into effect and ensure that victim restitution orders will receive priority in payment from a convicted defendant.

Our Constitution guarantees a victim of a crime the right to restitution. (Cal. Const., art. I, § 28(b)(13).) And the Constitution further provides that "All monetary payments, monies, and properties collected from any person who has been ordered to make restitution shall be first applied to pay the amounts ordered as restitution to the victim." (Cal. Const., Art. I, § 28(b)(13)(C).) While in practice victim restitution has always had priority (see e.g., *People v. Mozes* (2011) 192 Cal.App.4th 1124), no statute carries that constitutional command into effect. AB 1213 does just that by amending Penal Code section 1202.4 to clarify that a victim restitution order has priority over all other fines, fees, and penalty assessments imposed as part of a criminal conviction.

Receiving restitution is an essential component to victims of crime being made whole after a crime is committed. By ensuring that such orders are satisfied first, victims of crime will begin to heal from the trauma that a defendant inflicted upon them. And, conversely, an incarcerated defendant, who has paid off their restitution order will not be surprised upon their release to learn of an unpaid restitution order.

**– END –**