

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART II - CRIMINAL PROCEDURE
CHAPTER 232 - MISCELLANEOUS SENTENCING PROVISIONS

§ 3663A. Mandatory restitution to victims of certain crimes

- (a) (1) Notwithstanding any other provision of law, when sentencing a defendant convicted of an offense described in subsection (c), the court shall order, in addition to, or in the case of a misdemeanor, in addition to or in lieu of, any other penalty authorized by law, that the defendant make restitution to the victim of the offense or, if the victim is deceased, to the victim's estate.
- (2) For the purposes of this section, the term "victim" means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.
- (3) The court shall also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.
- (b) The order of restitution shall require that such defendant—
- (1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—
- (A) return the property to the owner of the property or someone designated by the owner; or
- (B) if return of the property under subparagraph (A) is impossible, impracticable, or inadequate, pay an amount equal to—
- (i) the greater of—
- (I) the value of the property on the date of the damage, loss, or destruction; or
- (II) the value of the property on the date of sentencing, less
- (ii) the value (as of the date the property is returned) of any part of the property that is returned;
- (2) in the case of an offense resulting in bodily injury to a victim—
- (A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;
- (B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and
- (C) reimburse the victim for income lost by such victim as a result of such offense;
- (3) in the case of an offense resulting in bodily injury that results in the death of the victim, pay an amount equal to the cost of necessary funeral and related services; and
- (4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.
- (c) (1) This section shall apply in all sentencing proceedings for convictions of, or plea agreements relating to charges for, any offense—
- (A) that is—

- (i) a crime of violence, as defined in section 16;
 - (ii) an offense against property under this title, or under section 416(a) of the Controlled Substances Act (21 U.S.C. 856 (a)), including any offense committed by fraud or deceit; or
 - (iii) an offense described in section 1365 (relating to tampering with consumer products); and
- (B) in which an identifiable victim or victims has suffered a physical injury or pecuniary loss.
- (2) In the case of a plea agreement that does not result in a conviction for an offense described in paragraph (1), this section shall apply only if the plea specifically states that an offense listed under such paragraph gave rise to the plea agreement.
- (3) This section shall not apply in the case of an offense described in paragraph (1)(A)(ii) if the court finds, from facts on the record, that—
- (A) the number of identifiable victims is so large as to make restitution impracticable; or
 - (B) determining complex issues of fact related to the cause or amount of the victim’s losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process.
- (d) An order of restitution under this section shall be issued and enforced in accordance with section 3664.

(Added Pub. L. 104–132, title II, § 204(a), Apr. 24, 1996, 110 Stat. 1227; amended Pub. L. 106–310, div. B, title XXXVI, § 3613(d), Oct. 17, 2000, 114 Stat. 1230.)

Amendments

2000—Subsec. (c)(1)(A)(ii). Pub. L. 106–310 inserted “or under section 416(a) of the Controlled Substances Act (21 U.S.C. 856 (a)),” after “under this title.”

Effective Date

Section to be effective, to extent constitutionally permissible, for sentencing proceedings in cases in which defendant is convicted on or after Apr. 24, 1996, see section 211 of Pub. L. 104–132, set out as an Effective Date of 1996 Amendment note under section 2248 of this title.