

Rule 26, Ariz. R. Crim. P. – Sentencing

RESTITUTION, Method of payment.....Revised 3/2010

When the court makes a restitution order, the court ordinarily orders the defendant to pay restitution to the victim through the clerk of the court. Rule 26.12(b), Ariz. R. Crim. P., states that all restitution payments “shall be made to the court, unless the court expressly directs otherwise,” and “[t]he court or the person authorized by the court to accept payment shall, as promptly as practicable, forward restitution payments to the victim.”

The court determines the *amount* of restitution to be ordered solely on the amount of economic loss suffered by the victim, not on the defendant’s ability to pay. A.R.S. § 13-804(C) states, “The court shall not consider the economic circumstances of the defendant in determining the amount of restitution.” However, the court should consider the defendant’s ability to pay in determining *how* the restitution is to be paid. Rule 26.12(A), Ariz. R. Crim. P., allows the court to permit payments of restitution in installments, and states, “Restitution shall be payable as promptly as possible in light of the defendant’s ability to pay.”

A.R.S. §§ 13-801 and 13-802 generally require all convicted defendants to pay fines to the court. However, when a defendant is convicted of an offense causing economic loss, A.R.S. § 13-804(A) allows the court to order the defendant to pay all or part of the fine imposed to the victim as restitution rather than to the court.