



**Restitution: Collection Practices
and Extension of Probation (HB 605)**

November 10, 2016

Overview



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- Methodology
- Key Findings
- Restitution Process
- Extension of Probation
- Staff Recommendations

Background



- Del. Robert B. Bell introduced House Bill 605 (HB 605) during the Regular Session of the 2016 General Assembly.
- As introduced, HB 605 required an automatic extension of probation if a defendant failed to pay restitution or complete community service as ordered by the court.
- A substitute version of HB 605, which extended the statute of limitations for the issuance of process for failure to pay restitution, was enacted into law.

Background



- The House Courts of Justice Committee requested that the Crime Commission review the subject matter of HB 605, to include an analysis of the automatic extension of probation for failure to pay restitution.
- The Executive Committee of the Crime Commission authorized a broad review of the topic of restitution, to include:
 - Examination of current methods for payment and collection of restitution; and,
 - Extension of probation.

Background



- The term “restitution” is defined by *Black’s Law Dictionary* as:
 - (1) Return or restoration of some specific thing to its rightful owner or status.
 - (2) Compensation for benefits derived from a wrong done to another.
 - (3) Compensation or reparation for the loss caused to another.
- Staff focused this study on criminal restitution.

Background



- The Crime Commission studied restitution in 2001 (SJR 399).
- As a result, the Virginia Code was amended in 2002 to improve the process of collecting restitution:
 - Va. Code § 19.2-305.1: Required that the court determine restitution at the time of sentencing and that such restitution *shall* be paid to the clerk for disbursement.
 - Va. Code § 19.2-306: Specified the procedure for revoking a defendant's suspended sentence or probation.

Methodology



- In order to address the study mandate, staff:
 - Collected available literature and reviewed multiple studies;
 - Gathered and analyzed data from numerous local and state entities;
 - Completed a review of Virginia restitution statutes;
 - Reviewed restitution statutes and practices from other states;

Methodology



- In order to address the study mandate, staff:
 - Surveyed Clerks of Court for all Circuit, General District, J&DR, and Combined District Courts;
 - 95% (306 of 321) of overall courts responded.
 - Surveyed other states' Department of Corrections;
 - 63% (31 of 49) of other states responded.

Methodology



- Met and consulted with numerous stakeholders:
 - Auditor of Public Accounts (APA)
 - City Treasurer’s Office
 - Clerks of Court
 - Commonwealth’s Attorneys
 - Compensation Board
 - Criminal Injuries Compensation Fund (CICF)
 - Local Probation/Community Corrections
 - National Center for Victims of Crime
 - Office of the Executive Secretary of the Supreme Court
 - Office of the Secretary of Public Safety and Homeland Security

Methodology



- Met and consulted with numerous stakeholders (cont.):
 - Private Collection Attorney
 - VA Court Clerks Association
 - VA Department of Corrections
 - VA Department of Criminal Justice Services
 - VA Department of Juvenile Justice
 - VA Department of Motor Vehicles
 - VA Department of Social Services
 - VA Department of Taxation
 - Court Debt Collections Office and Set-Off Debt Collection Program
 - VA Victim Assistance Network/Victim Witness Assistance Programs

Key Findings



- **An enormous amount of restitution goes uncollected in Virginia.**
- As of November 8, 2016, the total outstanding restitution owed to victims was: **\$406,697,471.**
 - Circuit Courts: \$391,292,962.
 - General District Courts: \$7,607,724.
 - Juvenile and Domestic Relations (J&DR) Courts: \$7,796,785.
 - Source: Office of the Executive Secretary-Supreme Court of Virginia, Department of Judicial Services.
- Data is not readily available to determine the total number of orders issued, number of defendants ordered to pay, and the number of victims owed restitution.

Key Findings



- The restitution process is fragmented and inconsistent in Virginia.
 - As a result, victims and defendants are not being treated equitably across the Commonwealth.
- All stakeholders expressed frustration and identified a clear lack of:
 - Coordination and communication;
 - Clearly defined roles and responsibilities;
 - Resources;
 - Standardization and efficiency; and,
 - Oversight and accountability.

Key Findings



- Staff identified four categories of need:
 1. Uniformity within the restitution process;
 2. Collection of restitution;
 3. Monitoring of restitution compliance; and,
 4. Disbursement of restitution.
- Staff identified many legislative and administrative changes that can be made to improve the overall functionality and efficiency of the system.

Key Findings-*Uniformity*



- Courts within the same jurisdiction engage in different practices when ordering, collecting, monitoring, and enforcing restitution.
- Lack of a standardized order makes it extremely difficult to collect, monitor, and disburse restitution.
 - Only 40% (120 of 302) of responding courts indicated that a standardized order was used when ordering restitution in criminal cases.
 - Lack of a standardized order can also make the amount due, the terms of payment, and the defendants' obligations unclear.
- Payment plans vary widely by court in terms of how they are established, structured, and enforced.

Key Findings-*Uniformity*



- There is no standardized informational resource available to victims to explain restitution and their role in the process.
- Defendants need to be provided with clear instructions on how to comply with orders of restitution and what they owe.
 - Research suggests that providing informational letters on a regular basis about how much they have paid and owe can lead them to pay more restitution and make more monthly payments.
- Additional training needs to be provided to clerks and judges regarding the restitution process.

Key Findings-*Uniformity*



- Stakeholders are not equipped with the necessary resources to perform statutorily mandated duties.
 - 26% (52 of 201) of District Courts are staffed by 3 or fewer FTE's.
 - Only 10% (32 of 305) of responding courts indicated that their office had a position dedicated solely to the receipt, distribution, or monitoring of restitution.
 - 88% of District Court Clerks make below the new FLSA minimum amount of \$47,476 (effective 12/1/16) and are therefore eligible for overtime after that date.
- While it would be optimal to have a one person in each locality dedicated to overseeing restitution, a lack of resources creates an impediment to such a practice.

Key Findings-*Collection*



- The collection process differs between courts, even though clerks are statutorily required to collect non-delinquent restitution.
- Efforts to collect restitution have been more successful once collections go delinquent.
- Payment options are limited and vary amongst the courts.
 - Most circuit courts do not have the ability to accept online payments due to lack of funding for a statewide system similar to the online payment system used for district courts.
 - Many courts still do not allow a defendant to pay restitution with a credit or debit card.
 - Innovative bill collection strategies are not being utilized for the collection of restitution.

Key Findings-*Monitoring*



- The Virginia Code mandates that the clerk collect and distribute restitution, but the Code is not clear as to who is really responsible for monitoring compliance with restitution.
- Literature suggests that defendants should remain on some type of probation to better ensure compliance with restitution payments.
- The burden is often placed on the victims to notify the court or Commonwealth's Attorney when they are not receiving restitution.

Key Findings-*Monitoring*



- Joint and several restitution orders and restitution docketed as a civil judgment are difficult to manage and track.
- Confusion exists over whether the docketing of a restitution order as a civil judgment prohibits criminal or contempt sanctions for failure to pay restitution as ordered.

Key Findings-*Disbursement*



- Clerks often have issues locating the victim and lack the resources to identify current addresses.
- Some localities order the defendant to pay restitution directly to the victim, which creates monitoring issues and the potential for unwanted contact between the victim and the defendant.
- The Virginia Code allows for community service in lieu of fines and costs, but no such option exists for defendants who are unable to pay restitution.



Restitution Process

Restitution Process



- The trial court shall determine the amount of restitution and terms of payment at sentencing.
- The sentencing order shall specify the amount of restitution to be paid and the terms of payment.
 - The court may order interest on the restitution at the statutory rate of 6%.
- Restitution shall be paid to the clerk and disbursed by the clerk as directed by the court.

Restitution Process



- Restitution may be ordered as a condition of the defendant's suspended sentence or probation.
- If the defendant is unable to pay restitution within 30 days of sentencing, the court shall require that he enter into a payment plan.
 - On November 1, 2016, the Supreme Court of Virginia issued Rule 1:24 governing payment plans, which becomes effective February 1, 2017.
 - The Rule addresses many issues identified as part of this study, such as consideration of the defendant's ability to pay, structuring the terms of payment, limiting down payment amounts, and combined payment plans.

Restitution Process



- The restitution order may be docketed as a civil judgment by the court or upon a written request from the victim.
 - 43% (50 of 116) of responding circuit courts indicated this was a common practice in their court.
- If restitution has been paid and the victim cannot be located, the clerk forwards the restitution to the Criminal Injuries Compensation Fund (CICF).
 - If the victim is later located, CICF disburses the restitution to that victim.

Restitution Process



Total CICF Unclaimed Restitution Received, CY14-CY16*

	CY14	CY15	CY16
Total Unclaimed Restitution	\$ 706,759	\$ 670,623	\$ 634,853

Source: CICF Case Management System. *CY16 data is through November 3, 2016.

Total CICF Collections, CY14-CY16*

Source of Monies Received	CY14	CY15	CY16
CICF Collections <i>monies received directly from offenders</i>	\$ 126,080	\$ 119,667	\$ 104,318
Restitution <i>monies received by courts and forwarded to CICF</i>	\$ 237,948	\$ 235,968	\$ 215,087
State Tax Setoff Program	\$ 132,152	\$ 151,074	\$ 147,888
TOTAL	\$496,180	\$ 506,709	\$ 467,293

Source: CICF Case Management System. *CY16 data is through November 3, 2016.

Restitution Process



- Virginia law differentiates between two types of restitution in the criminal context:
 - **Non-Delinquent:** Restitution which the defendant has paid in full or is paying in compliance with a payment plan; or,
 - **Delinquent:** Restitution which the defendant has failed to pay within the time limit ordered by the court—this could include not paying the full amount by a certain date or defaulting on the terms of a payment plan.

Restitution Process



Total Non-Delinquent Restitution Assessed and Paid, FY15-FY16

Fiscal Year	Total Assessed*	Total Paid**	Collection %
FY 2015	\$ 42,957,547	\$ 3,742,926	9%
FY 2016	\$ 39,524,666	\$ 3,791,320	10%

Source: Office of the Executive Secretary-Supreme Court of Virginia, Department of Judicial Services.

* *Total Assessed* is overstated due to joint and several orders. ** *Total Paid* is the principle amount assessed and paid on during that fiscal year, not amounts paid regardless of when assessed. As such, collection percentages must be interpreted with extreme caution.

Restitution Process



Total Non-Delinquent Restitution Assessed and Paid by Type of Court, FY16

Type of Court	Total Assessed*	Total Paid**
Circuit Courts	\$ 34,940,874	\$ 2,068,994
General District Courts	\$ 3,292,694	\$ 1,186,963
J&DR Courts	\$ 1,291,098	\$ 535,362
TOTAL	\$ 39,524,666	\$ 3,791,320

Source: Office of the Executive Secretary-Supreme Court of Virginia, Department of Judicial Services.
* *Total Assessed* is overstated due to joint and several orders. ** *Total Paid* is the principle amount assessed and paid on during that fiscal year, not amounts paid regardless of when assessed.

Restitution Process-*Delinquent*



- If the restitution becomes 41 days past due, the amount owed is sent to collections.
- Commonwealth's Attorneys can collect delinquent restitution or designate one of the following entities:
 - Private attorney or private collections agency;
 - Local governing body;
 - County or city Treasurer; or,
 - Department of Taxation.

Restitution Process-*Delinquent*



Collection Agents for Delinquent Restitution, FY16

Collection Agent	Total Courts	% of Total
Department of Taxation	238	74%
Commonwealth's Attorneys	35	11%
Private Attorneys	29	9%
Treasurer's Offices	19	6%
TOTAL	321	

Source: State Compensation Board

Restitution Process-*Delinquent*



Total Delinquent Restitution Assessed and Collected, FY15-FY16*

Fiscal Year	Total Assessed	Total Collected	Collection %
2015	\$ 28,613,642	\$ 5,306,040	19%
2016	\$ 33,993,646	\$ 5,852,399	17%

Source: State Compensation Board. * FY16 data accurate as of September 16, 2016. Note: Assessments of restitution in a fiscal year are limited to assessments made in that fiscal year, however collections of restitution in a fiscal year may contain amounts collected for prior year assessments. As such, collection percentages must be interpreted with extreme caution.

Restitution Process-*Delinquent*



Total Delinquent Restitution Assessed and Collected by Type of Court, FY16*

Type of Court	Total Courts	Total Assessed	Total Collected	Collection %
Circuit Courts	120	\$ 31,035,690	\$ 5,087,233	16%
General District Courts	78	\$ 1,186,342	\$ 274,926	23%
J&DR Courts	77	\$ 859,298	\$ 256,387	30%
Combined District Courts	46	\$ 912,317	\$ 233,852	26%
TOTAL	321	\$ 33,993,646	\$ 5,852,399	17%

Source: State Compensation Board. * FY16 data accurate as of September 16, 2016. Note: Assessments of restitution in a fiscal year are limited to assessments made in that fiscal year, however collections of restitution in a fiscal year may contain amounts collected for prior year assessments. As such, collection percentages must be interpreted with extreme caution.

Restitution Process-*Delinquent*



Total Delinquent Restitution Assessed and Collected By Collection Agency, FY16*

Collection Agent	Total Courts	Total Assessed	Total Collected	Collection %
Department of Taxation	238	\$ 22,913,673	\$ 3,254,099	14%
Commonwealth's Attorneys	35	\$ 2,937,314	\$ 775,325	26%
Private Attorneys	29	\$ 4,292,672	\$ 1,234,024	29%
Treasurer's Offices	19	\$ 3,849,987	\$ 588,951	15%
TOTAL	321	\$ 33,993,646	\$ 5,852,399	17%

Source: State Compensation Board. * FY16 data accurate as of September 16, 2016. Note: Assessments of restitution in a fiscal year are limited to assessments made in that fiscal year, however collections of restitution in a fiscal year may contain amounts collected for prior year assessments. As such, collection percentages must be interpreted with extreme caution.

Restitution Process-*Sanctions*



- The court may sanction a defendant for failure to pay restitution by:
 - Criminal revocation of suspended sentence or probation pursuant to Va. Code § 19.2-306.
 - May revoke the suspended portion of the sentence and may re-suspend the sentence with additional terms.
 - Contempt pursuant to Va. Code § 19.2-358.
 - May impose up to 60 days incarceration or a \$500 fine.
 - Suspension of driving privileges pursuant to Va. Code § 46.2-395.
 - Driving privilege is suspended until restitution is paid in full or defendant is on an approved payment plan.

Restitution Process-*Sanctions*



- Some methods used in Virginia include:
 - Garnishment of wages;
 - Liens on property;
 - Levy of property;
 - Withholding of state tax refund;
 - Withholding of lottery winnings; and
 - Requirement that defendants serving a term of incarceration on work release, non-consecutive days, or electronic monitoring remain compliant with restitution payments.

Restitution Process-*Other States*



- Other states have identified unique methods to handle restitution, for instance:
 - Designate a statewide agency or a centralized approach to handle all aspects of restitution;
 - Suspend any recreational licenses or other state privileges for failure to comply;
 - Prohibit expungement of records if any unpaid restitution;
 - Statutorily require substantial garnishment of inmate wages;
 - Thoroughly investigate financial disclosures;

Restitution Process-*Other States*



- Other states have identified unique methods to handle restitution, for instance (cont.):
 - Transfer restitution owed to victim's estate;
 - Transfer restitution owed from defendant's estate;
 - Docket all restitution orders as civil judgments;
 - Automatically generate bills and reminder letters to defendants;
 - Use kiosk machines across the state for payments; and,
 - Statutory requirement for determining the defendant's ability to pay when establishing the terms of payment.



Extension of Probation

Extension of Probation



Can probation be *automatically* extended?

- An automatic extension of probation is not currently authorized under Virginia law.
- In the 1970 case of Cook v. Commonwealth, the Virginia Supreme Court held that:
 - “...*fundamental fairness requires a judicial hearing of a summary nature for the probation period to be extended, since increasing the period of probation has the effect of extending the restraints on the probationer's liberty...*”

Criminal Sentencing



Can probation be *automatically* extended?

- Pursuant to Va. Code § 19.2-304, the court may increase, decrease, revoke, or modify probation after a hearing with notice to the parties.
 - This is an exception to the 21 day rule in Rule 1:1 of the Rules of the Supreme Court of Virginia.
 - A court can modify probation after 21 days, but with limited exceptions cannot modify a suspended sentence after 21 days unless such modification occurs as a result of a violation proceeding.

Extension of Probation



What if the defendant has served the entire sentence originally imposed?

- At a revocation hearing, the court is limited to imposing the original sentence if the execution of the sentence was suspended.
- When a sentence exceeds the maximum allowable punishment under law, only the excessive portion of the sentence is invalid. – Deagle v. Commonwealth (1973).
- This does not prohibit sanctions for failure to pay restitution under Va. Code § 19.2-358.

Other States-Extension of Probation



- At least 24 other states address the extension of probation for failure to pay restitution, including:
 - Arizona, Arkansas, California, Colorado, Delaware, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Montana, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Texas, Utah, Washington, Wisconsin, and Wyoming.

Other States



- Michigan C.L.S. § 780.766(18):
 - “In each case in which payment of restitution is ordered as a condition of probation, the court shall order any employed defendant to make regularly scheduled restitution payments. If the defendant misses 2 or more regularly scheduled payments, the court shall order the defendant to execute a wage assignment to pay the restitution. The probation officer assigned to the case shall review the case not less than twice yearly to ensure that restitution is being paid as ordered. If the restitution was ordered to be made within a specific period of time, the probation officer assigned to the case shall review the case at the end of the specific period of time to determine if the restitution has been paid in full. The final review shall be conducted not less than 60 days before the probationary period expires...”

Other States



- Michigan C.L.S. § 780.766(18) (cont.):
 - “...If the probation officer determines at any review that restitution is not being paid as ordered, the probation officer shall file a written report of the violation with the court on a form prescribed by the state court administrative office or shall petition the court for a probation violation. The report or petition shall include a statement of the amount of the arrearage and any reasons for the arrearage known by the probation officer. The probation officer shall immediately provide a copy of the report or petition to the prosecuting attorney. If a petition or motion is filed or other proceedings are initiated to enforce payment of restitution and the court determines that restitution is not being paid or has not been paid as ordered by the court, the court shall promptly take action necessary to compel compliance.”

Other States



- Washington Rev. Code Ann. § 9.94A.753(4):
 - “...For an offense committed on or after July 1, 2000, the offender shall remain under the court’s jurisdiction until the obligation is completely satisfied, regardless of the statutory maximum for the crime. The portion of the sentence concerning restitution may be modified as to amount, terms, and conditions during any period of time the offender remains under the court’s jurisdiction, regardless of the expiration of the offender’s term of community supervision and regardless of the statutory maximum sentence for the crime...”

Other States



- Kentucky Revised Statute § 532.033(8):
 - “When a judge orders restitution, the judge shall...[n]ot release the defendant from probation supervision until restitution has been paid in full and all other aspects of the probation order have been successfully completed.”
- Kentucky Revised Statute § 533.020(4):
 - “The period of probation, probation with an alternative sentence, or conditional discharge shall be fixed by the court and at any time may be extended or shortened by duly entered court order. Such period, with extensions thereof, shall not exceed five (5) years, or the time necessary to complete restitution, whichever is longer, upon conviction of a felony nor two (2) years, or the time necessary to complete restitution, whichever is longer, upon conviction of a misdemeanor.”

Other States



- Louisiana Code of Crim. Proc. Art. 894.4:
 - “When a defendant has been sentenced to probation and has a monetary obligation, including but not limited to court costs, fines, costs of prosecution, and any other monetary costs associated with probation, the judge may extend the period of probation until the monetary obligation is extinguished.”



Staff Recommendations

Staff Recommendations



- Staff recommendations have been grouped into four categories with the overall goal of improving the functionality and efficiency of the system as a whole:
 - Uniformity within the system;
 - Collection from the defendant;
 - Monitoring of compliance; and,
 - Disbursement to the victim.

Recommendations—Uniformity



Recommendation #1 (Legislation):

- Virginia Code § 19.2-305.1 should be amended to require the Office of the Executive Secretary of the Supreme Court to develop a form order for restitution, which should include at a minimum the following information:
 - Contact information for the defendant and victim(s);
 - The total amount ordered and the terms of payment;
 - For restitution ordered as joint and several, any other defendant(s) and victim(s) related to said order; and,
 - If interest is ordered on the restitution, the date from which the interest accrues.

Recommendations—Uniformity



Recommendation #2 (Legislation):

- Virginia Code § 19.2-305.1 should be amended to require that the form order developed by the Office of the Executive Secretary of the Supreme Court, or a substantially similar form order developed by the locality, should be completed by the Commonwealth's Attorney prior to sentencing and should be entered by the court at the time of sentencing.
 - A copy of this form order should be provided to the defendant, without the victim's contact information, at the sentencing.
 - A copy of this form order should be provided to the victim(s), free of charge, upon request of the victim(s).
 - This form will provide vital information for clerks to collect and distribute restitution.

Recommendations—Uniformity



Recommendation #3 (Letter):

- The Office of the Executive Secretary for the Supreme Court, in coordination with other stakeholders involved in the restitution process, should develop best practice guidelines for managing the restitution process. The guidelines should address such practices as:
 - Developing a local plan for the collection, monitoring and disbursement of restitution;
 - Addressing repeat offenders;
 - Joint and several restitution orders;
 - How payments are applied when the defendant owes fines, costs and restitution;
 - Issues surrounding micro-checks for restitution;

Recommendations—Uniformity



Recommendation #3 (Letter) (cont.):

- The guidelines should address such practices as:
 - Issues involving collections when the victim is a large corporation or insurance company;
 - How to handle unclaimed restitution;
 - Options for locating the victim for disbursement;
 - Availability of payment options, including credit and debit cards and online payment;
 - Feasibility of developing a uniform payment schedule for restitution, similar to the child/spousal support model; and,
 - Defining when a case is closed for purposes of collection and monitoring.

Recommendations—Uniformity



Recommendation #4 (Letter):

- The Office of the Executive Secretary for the Supreme Court should provide training to clerks and judges on the best practice guidelines for managing the restitution process.

Recommendations—Uniformity



Recommendation #5 (Letter):

- The Department of Criminal Justice Services should convene representatives from the Virginia Victim Assistance Network, the Criminal Injuries Compensation Fund, Commonwealth's Attorneys' offices, and any other interested stakeholders, to develop an informational brochure for victims to explain restitution and the victim's role in the restitution process.

Recommendations—Uniformity



Recommendation #6 (Legislation):

- Virginia Code § 19.2-305.2 should be amended to clarify that the docketing of a criminal restitution order as a civil judgment does not prohibit criminal or contempt enforcement of that restitution order.

Recommendations—Collection



Recommendation #7 (Legislation):

- The General Assembly should authorize funding for the Office of the Executive Secretary of the Supreme Court to allow for circuit courts to accept online payments.

Recommendations—Collection



Recommendation #8 (Letter):

- The Office of the Executive Secretary of the Supreme Court should enhance the FMS to allow clerks the ability to generate a payment notice, as is the practice with fines and costs, along with any other capabilities that would enhance the management of restitution.

Recommendations—Collection



Recommendation #9 (Letter):

- The Department of Taxation Court Debt Collections Office should explore the possibility of accepting payments for delinquent restitution and upgrading current software to allow for a more streamlined approach to the collection of restitution.
 - *May require legislation if funding is provided for new software.*

Recommendations—Collection



Recommendation #10 (Legislation):

- Virginia Code § 19.2-305.1 should be amended to allow for both the defendant and the Commonwealth's Attorney to seek modification of the terms of payment of restitution in the event that a defendant's ability to pay changes.

Recommendations—Monitoring



Recommendation #11 (Legislation):

- Virginia Code § 19.2-305.1 should be amended to specify who is responsible for monitoring compliance with the payment of restitution. Such amendments should include:
 - If restitution is ordered, the defendant should be placed on supervised probation until all restitution is paid in full;
 - The Department of Corrections or the local probation office should be responsible for monitoring compliance with the restitution order;
 - If restitution has not been paid in full prior to the expiration of probation, the supervised probation should be extended under the procedures set forth in Virginia Code § 19.2-304;

Recommendations—Monitoring



Recommendation #11 (Legislation) (cont.):

- Such amendments to Va. Code § 19.2-305.1 should include:
 - The court should be required to conduct a hearing upon notice from the probation officer that the defendant is not in compliance with restitution payments;
 - The court should verify with the clerk of court that all restitution has been paid before releasing the defendant from supervised probation; and,
 - A provision could be included to allow the court to release the defendant from supervised probation under special circumstances, after consideration of the amount owed and paid, payment history, and the defendant's future ability to pay.

Recommendations—Monitoring



Recommendation #12 (Legislation):

- The General Assembly should provide additional resources to the Department of Corrections to support the monitoring of restitution and the extension of probation.

Recommendations—Disbursement



Recommendation #13 (Legislation):

- Virginia Code § 19.2-305.1 should be amended to specify that the court shall not order the defendant to pay restitution directly to the victim or through the defendant's counsel.

Recommendations—Disbursement



Recommendation #14 (Legislation):

- Virginia Code § 19.2-354 should be amended to allow the court discretion to order a defendant who is unable to pay restitution the option to perform community service at the rate of the state minimum wage (\$7.25) in lieu of restitution, provided that such community service is with the consent of the victim, the victim's estate, or the victim's agent, and the Commonwealth's Attorney.



Discussion