

State of Iowa Department of Corrections

Policy and Procedures

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Applicability: Institutions
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Iowa Code Reference: 904, 910, 321.482
Chapter 1: Administration & Management
Sub Chapter: Fiscal Management
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Subject: Restitution
PREA Standards: NA
Responsibility: Steve Dick
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Authority:

1. PURPOSE

To provide the Iowa Department of Corrections (IDOC) with guidance regarding cases in which the incarcerated individual has fines or assessed court costs pending.

2. POLICY

It is the policy of the IDOC to ensure that incarcerated individual court ordered restitution, including fines or court costs is collected within the scope of applicable state statutes and regulations.

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3. DEFINITIONS – As used in this document:

- A. Criminal Activity – Any act determined by a court of proper jurisdiction to result in a plea of guilty, verdict of guilty, or special verdict upon which judgment of conviction is rendered, on or after July 1, 1982. However, criminal activities do not include simple misdemeanors under **Iowa Code Section 321.482**.
- B. Fines, Penalties, Surcharges – Any financial assessment ordered by the court as a result of a criminal conviction.
- C. Pecuniary Damages – All damages to an extent not paid by an insurer which the victim could recover against an incarcerated individual in a civil action arising out of the same facts or event, except punitive damages and damages for pain, suffering, mental anguish, and loss of consortium. Without limitation, pecuniary damages include damages for wrongful death.
- D. Restitution – Payment of pecuniary damages to a victim in an amount provided by the court ordered plan of restitution. Restitution shall also include fines, penalties and surcharges, the payment of crime victim assistance reimbursements, court costs, court-appointed attorney's fees, the expense of a public defender or the performance of a public service by an incarcerated individual in an amount set by the court when no victim has suffered financial damages not paid by insurance and the incarcerated individual cannot reasonably pay all or part of the court costs, court-appointment attorney's fees, or the expense of a public defender.
- E. Restitution Payment Plan – The schedule of payments IDOC has developed to comply with the court ordered restitution plan.
- F. Restitution Plan – The amount of restitution as set forth by the court.
- G. Victim – A person who has suffered physical, emotional, or financial harm as the result of a public offense or a delinquent act committed in this state. Victim may also include the immediate family members of a victim, members of a victim's household, and/or witnesses.
- H. Pre-deprivation Notice – A written notice to the incarcerated individual of intent to deduct restitution from all account credits, and an opportunity to object.
- I. See IDOC Policy **AD-GA-16** for additional Definitions.

4. PROCEDURES

A. Application

1. Under **Iowa Code Chapter 910** incarcerated individuals with an offense date on or after July 1, 1982, shall make restitution as ordered by the sentencing court. IDOC shall ensure that a restitution payment plan is developed within a reasonable time following admission.
2. Through all levels of commitment, the restitution payment plan must follow the incarcerated individual until all restitution obligations are paid in full. The restitution payment plan may be modified through each level of commitment, (including Pre-institutional Services, Institutional Services, and Post-institutional Services).
3. When an incarcerated individual is serving more than one sentence which causes more than one restitution payment plan to be ordered by the court, IDOC shall develop a restitution payment plan for each case as ordered by the court. All payments shall be forwarded to the clerk of court in the county of conviction for distribution.

B. Admission at Reception Center

1. At the time of admission, each incarcerated individual shall be provided a Pre-deprivation Notice, using **AD-FM-06 F-1**, *Notice of Intent to Deduct Restitution*.
2. Incarcerated individuals shall be given five calendar days to return the Pre-deprivation Notice. Failure to return the Pre-deprivation Notice within five calendar days shall constitute a no response by the incarcerated individual and the collections from revenue shall begin.
3. There shall be no right to request an additional pre-deprivation hearing by incarcerated individual after the initial Notice.
4. Following return of the Pre-deprivation Notice, IDOC shall review all the incarcerated individual objections to restitution deductions and indicate if the objections are acceptable or not acceptable.
5. Restitution collections from revenue sources shall not begin until IDOC reviews the Pre-deprivation Notice and the court information is reviewed for accuracy.

C. Community Supervision

The Iowa Court Information System shall be utilized to determine outstanding restitution balances when incarcerated individuals are revoked from community supervision (probation, parole, work release) or released to community supervision from the institution.

D. Restitution Payment Plan

1. The restitution payment plan, using **AD-FM-06 F-2**, *Restitution Plan* shall be prepared as soon as possible with copies sent to the incarcerated individual, the incarcerated individual master file, and the appropriate clerk of court.
2. The restitution payment plan shall consider the present circumstances of an incarcerated individual's financial resources, physical and mental health, education, employment, family circumstances, and other legal/financial obligations. The payment plan amount may be reduced to less than the standard 20% deduction from revenue sources and work allowances to comply with court ordered child support or other legal financial obligations.
3. All financial resources/assets shall be considered in the payment process.
4. The Iowa State Penitentiary (ISP) Business Office or designee shall oversee the restitution payment process and ensure the institution's compliance.
5. Restitution plans may be modified at any time subject to new information provided by the sentencing court or changes in the court's electronic information system.
6. A copy of each restitution payment plan, new or modified, must be sent to the clerk of court in the county of conviction.

Initially incarcerated individual objections regarding the restitution payment plan must be addressed using **AD-FM-06 F-1**, *Notice of Intent to Deduct Restitution*, and shall be sent to the Iowa State Penitentiary, PO Box 316, Fort Madison, IA 52627-0316.

E. Collection

1. Restitution collections are not limited to those cases/offenses for which the incarcerated individual is currently incarcerated. If an incarcerated individual discharge's a sentence while incarcerated and continues confinement under another case, restitution collections shall continue. IDOC may re-implement a restitution plan for any previously established plan that still carries an outstanding balance.
2. Upon full payment of a restitution plan, records shall be maintained in ICON in the incarcerated individual's master file.
3. All payments shall be forwarded to the clerk of court in the county of conviction.
4. Incarcerated individuals may not substitute community service work for restitution payment while incarcerated unless specifically required by the sentencing court.
5. IDOC shall deduct restitution payments from all credits to an incarcerated individual's account. The following shall be exempt for deductions from credits to an incarcerated individual's account from an outside source:
 - a. An amount determined by IDOC or designee specifically for medical costs. The same percent as established in the restitution plan shall be deducted from any amount over the total amount assessed. If the medical procedures are not performed or carried out, the money shall be returned to the sender at the incarcerated individual's expense.
 - b. An amount determined by IDOC or designee specifically for funeral trip costs. Any amount over the total amount assessed shall either be returned to the sender or placed on the incarcerated individual's account with the same percent as established in the restitution plan deducted.
 - c. An amount as determined by the appropriate authority specifically for transportation fees as a result of work release/ OWI violations or compact transfers. The same percent as established in the restitution plan shall be deducted from any amount over the total amount assessed.
 - d. Refunds from outside vendors or credits from institution commissaries.

- e. Property tort claims of \$100 or less.
 - f. Veterans Administration benefits as long as the VA benefit check is deposited with the IDOC.
 - g. Amounts directed to be deposited in the incarcerated individual telephone fund in **Iowa Code 904.508A**, sent to the incarcerated individual from a source other than the IDOC.
 - h. Any other exception, such as monies designated for approved educational expenses, shall be approved by IDOC or designee.
6. Restitution Plans may deduct up to 50% of any credit to an incarcerated individual's account from a revenue source or work allowance as defined in **Iowa Code 904.701**.
 7. A percent greater than specified in the restitution payment plan may be deducted from a revenue source by written authorization from the incarcerated individual, or by court order.
 8. For those working private sector jobs as outlined in Iowa Code 904.809, any amount available after higher priority deductions occur will be applied to the outstanding restitution balance up to the amount due.
 9. IDOC or designee may authorize a greater percent than established in the restitution payment plan from a credit by a revenue source not to exceed 50% after a Pre-deprivation Notice is provided.
 10. When the IDOC has knowledge of other income or assets which are not deposited in an institution-controlled account, IDOC shall supply, in writing, any and all information to the clerk of court of the sentencing county.
 11. All deductions shall occur prior to each posting. These deductions shall accumulate during each quarter of the year.
 12. At the end of each quarter, the Iowa State Penitentiary shall submit to each county one lump sum payment with a list of all incarcerated individuals and the amount of each incarcerated individual's payment.

13. The Business Office at the Iowa State Penitentiary shall maintain up-to-date and accurate financial records of all incarcerated individual deductions and payments.

Replaces: AD-CR-03

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