

Date of Hearing: April 7, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2297 (Stefani) – As Amended March 26, 2026

SUMMARY: Applies the general restitution statute to defendants who enter a diversion program. Specifically, **this bill:**

- 1) States that a court shall order restitution to the victim or victims, if any, which shall be enforceable as if the order were a civil judgment, and paid in the order required under existing law, when a defendant participates in a diversion program.
- 2) Requires a defendant to be informed of their right to have a judicial determination of the amount and is provided with a hearing, or they may waive the hearing or stipulate to the amount ordered.
- 3) Provides that if the court finds that restitution is owed to any victim as a result of the diverted offense, the court shall order its payment during the period of diversion.
- 4) Prohibits a defendant's inability to pay restitution due to indigence or mental disorder from being used as grounds for denial of diversion or a finding that the defendant has failed to comply with the terms of diversion.
- 5) Specifies that if the defendant withdraws from diversion or fails to complete the terms of diversion, a restitution order shall be suspended until criminal proceedings are resolved.
- 6) States that if the defendant completes diversion, a restitution order may be enforced in the same manner as a civil judgment pursuant to existing provisions of law.
- 7) States that it is the intent of the Legislature that a victim of a crime who incurs an economic loss as a result of the commission of a crime shall receive restitution directly from a defendant who enters a diversion program resulting from that crime.
- 8) Makes conforming changes.

EXISTING LAW:

- 1) Provides that, in order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled specified rights, including among others, restitution. (Cal. Const., art. I, § 28, subd. (b)(13).)
- 2) 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).)

- 3) 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).)
- 4) Mandates that in every case where a person is convicted of a crime, the court shall impose a separate and additional restitution fine, unless it finds compelling and extraordinary reasons for not doing so and states those reasons on the record. (Pen. Code, § 1202.4, subd. (b).)
- 5) Requires a restitution fine be set at the discretion of the court and commensurate with the seriousness of the offense. If the person is convicted of a felony, the fine shall not be less than \$300 and not more than \$10,000. If the person is convicted of a misdemeanor, the fine shall not be less than \$150 and not more than \$1,000. (Pen. Code, § 1202.4, subd. (b)(1).)
- 6) States that, in setting a felony restitution fine, the court may determine the amount of the fine as the product of the minimum fine, as specified above, multiplied by the number of years of imprisonment the defendant is ordered to serve, multiplied by the number of felony counts of which the defendant is convicted. (Pen. Code, § 1202.4, subd. (b)(2).)
- 7) Provides that to the extent possible, the restitution order shall be prepared by the sentencing court, shall identify each victim and each loss to which it pertains, and shall be of a dollar amount that is sufficient to fully reimburse the victim or victims for every determined economic loss incurred as the result of the defendant's criminal conduct, including, but not limited to, all of the following:
 - a) Full or partial payment for the value of stolen or damaged property. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible.
 - b) Medical expenses.
 - c) Mental health counseling expenses.
 - d) 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. Lost wages shall include commission income as well as base wages. Commission income shall be established by evidence of commission income during the 12-month period prior to the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.
 - e) Wages or profits lost by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, due to time spent as a witness or in assisting the police or prosecution. Lost wages shall include commission income as well as base wages. Commission income shall be established by evidence of commission income during the 12-month period prior to the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.

- f) Noneconomic losses, including, but not limited to, psychological harm, for felony violations of child sexual assault, as specified.
 - g) Interest, at the rate of 10 percent per year that accrues as of the date of sentencing or loss, as determined by the court.
 - h) Actual and reasonable attorney's fees and other costs of collection accrued by a private entity on behalf of the victim.
 - i) Expenses incurred by an adult victim in relocating away from the defendant, including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items. Expenses incurred pursuant to this section shall be verified by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.
 - j) Expenses to install or increase residential security incurred related to domestic violence, as specified, or a violent felony, as specified, including, but not limited to, a home security device or system, or replacing or increasing the number of locks.
 - k) Expenses to retrofit a residence or vehicle, or both, to make the residence accessible to or the vehicle operational by the victim, if the victim is permanently disabled, whether the disability is partial or total, as a direct result of the crime.
 - l) Expenses for a period of time reasonably necessary to make the victim whole, for the costs to monitor the credit report of, and for the costs to repair the credit of, a victim of identity theft, as specified. (Pen. Code, § 1202.4, subd. (f)(3)(A-L).)
- 8) States if a defendant is currently incarcerated in a state prison with two-way audio-video communication capability, the Department of Corrections and Rehabilitation (CDCR), at the request of the California Victim Compensation Board (Cal VCB), may collaborate with a court in any county to arrange for a hearing to impose or amend a restitution order, if the victim has received victim compensation assistance, to be conducted by two-way electronic audio-video communication between the defendant and the courtroom in lieu of the defendant's physical presence in the courtroom, provided the county has agreed to make the necessary equipment available. (Pen. Code, § 1202.41, subd. (a)(1).)
- 9) Specifies that a restitution order is enforceable by the victim as a civil judgment, and enforceable in the same manner as is provided for the enforcement of any other money judgment. Upon the victim's request, the court shall provide the victim in whose favor the order of restitution is entered with a certified copy of that order and a copy of the defendant's financial disclosure. (Pen. Code, §§ 1202.4, subd. (i), & 1214, subd. (b).)
- 10) States that any portion of a restitution fine or restitution fee that remains unsatisfied after a defendant is no longer on probation, parole, postrelease community supervision or mandatory supervision, after a term in custody, or after completing diversion is enforceable by Cal VCB. (Pen. Code, § 1214, subd. (a).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, “Since its creation following the 1982 Victims’ Bill of Rights, restitution has always been tied to a formal conviction. As diversion programs have expanded in use as rehabilitative tools, more cases resolve without convictions. Of the 14 diversion programs currently in law, 10 are silent regarding a defendant’s responsibility to pay restitution to their victim while others create a patchwork of partial or limited restitution depending on whether and which diversion was applied. The inconsistencies in diversion statutes often leave courts without jurisdiction to order a victim’s losses to be repaid or result in unequal treatment for comparable offenses. AB 2297 seeks to balance the interests of victims—ensuring they are made whole—while also maintaining equitable access to diversion as an alternative to incarceration or formal conviction, particularly for first-time or low-level offenders. AB 2297 reduces disparities in the legal process, creates reasonable and consistent expectations for defendants and victims alike, and ensures that as newer forms of diversion are contemplated, they will never be created at the expense of a victim’s right to restitution.”

- 2) **Diversion Generally:** Diversion is the suspension of criminal proceedings for a prescribed time period with certain conditions. A defendant may not be required to admit guilt as a prerequisite for placement in a pretrial diversion program. If diversion is successfully completed, the criminal charges are dismissed and the defendant may, with certain exceptions, legally answer that he or she has never been arrested or charged for the diverted offense. If diversion is not successfully completed, the criminal proceedings resume, however, a hearing to terminate diversion is required.

Diversion programs may be pre-plea or post-plea (often called deferred entry of judgement). Pre-plea programs allow a defendant to participate in the program without admitting guilt. In post-plea programs, the defendant must first admit guilt before participating in the program. The main difference between the two types of diversion is that in a pre-plea program, if the defendant does not successfully complete the program, criminal proceedings resume and the defendant has the option to plead guilty or pursue a defense against their case. In a post-plea diversion program, if a defendant does not successfully complete the program, the defendant having already plead guilty, would be sentenced.

In recent years, the Legislature has enacted several pre-plea diversion programs such as military diversion (SB 1227 (Hancock), chapter 658, statutes of 2013), mental health diversion (SB 215 (Beall), chapter 1005, statutes of 2017), diversion for primary caretakers (SB 394 (Skinner), chapter 593, statutes of 2019), and court-initiated misdemeanor diversion (AB 3234 (Ting), chapter 334, statutes of 2020). Drug diversion was enacted as a pre-plea program and changed to a post-plea program in 1997 (SB 1369 (Kopp), chapter 1132, statutes of 1996), then in 2017 changed back to a pre-plea program (AB 208 (Eggman), chapter 778, statutes of 2017).

Existing law also authorizes a city or county prosecuting attorney or county probation department, until January 1, 2031, to create a diversion or deferred entry of judgment program for persons who commit a theft offense or repeat theft offenses and specifies that the prosecuting attorney is to determine who to refer to the program and who is appropriate for placement in the program. For purposes of the program, “repeat theft offenses” means being

cited or convicted for misdemeanor or felony theft from a store or vehicle two or more times in the previous 12 months and failing to appear in court when cited for these crimes or continuing to engage in these crimes after release or after conviction. (Pen. Code, § 1001.81.)

- 3) **Constitutional Right to Victim Restitution:** The California Constitution guarantees victims the right to restitution. Specifically, Article I, Section 28 of the California Constitution provides that, in order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled specified rights, including among others, restitution. (Cal. Const., art. I, § 28, subd. (b)(13); added by Proposition 8, approved by California voters in the general election on November 8, 1982.) It also states that “[i]t 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 restitution from the persons convicted of the crimes for losses they suffer. Restitution shall be ordered from the convicted persons in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss, unless compelling and extraordinary reasons exist to the contrary.” (Cal. Const., art. I, sec. 28, subd. (b).) “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.” (*People v. Gross* (2015) 238 Cal.App.4th 1313, 1317-1318.)

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 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, § 1204.5, subd. (f)(3).)

If the amount of restitution cannot be ascertained at the time of sentencing, the court shall include a provision in the restitution order that the restitution amount shall be determined at a future time. (*Ibid.*) The trial court must incorporate the restitution order in the defendant's conditions of probation. (Pen. Code, § 1202.4, subd. (m).) If part of a restitution order has not been paid after a defendant is no longer on probation, it remains enforceable by the victim as though it were a civil judgment. (Pen. Code, 1202.4, subd. (m); Pen. Code, § 1214.) Additionally, if the defendant is unable to pay full restitution within the initial term of probation, the court can modify and extend the period of probation to allow the defendant to pay off all restitution within the probation term. (Pen. Code, §1203.3, subd. (b)(4); *People v. Cookson* (1991) 54 Cal.3d 1091, 1097.) Generally, the probation term may be extended up to, but not beyond, the maximum probation period allowed for the offense. (*People v. Medeiros* (1994) 25 Cal.App.4th 1260, 1267–1268.)

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.*)

Last year, the Legislature passed legislation to clarify that restitution orders take priority over all other fines and fees that may be levied against a defendant based on their conviction. (AB 1213 (Stefani), Ch. 184, Stats. 2025.)

This bill would include within Penal Code section 1202.4 a right to restitution for victims of crimes where the defendant participates in a diversion program. Existing law requires victim compensation after a conviction, however a defendant who participates successfully in a diversion program would not receive a conviction for the underlying offense. Thus, courts may only order restitution if the individual diversion statute authorizes it.

- 4) Restitution in the Various Diversion Statutes:** Restitution is specifically authorized in several existing diversion statutes. For example, the mental health diversion law provides that “[u]pon request, the court shall conduct a hearing to determine whether restitution, as defined in subdivision (f) of Section 1202.4, is owed to any victim as a result of the diverted offense and, if owed, order its payment during the period of diversion.” (Pen. Code, § 1001.36, subd. (f)(1)(D).) The court-initiated misdemeanor diversion program requires a defendant to “[m]ake full restitution.” (Pen. Code, § 1001.96, subd. (b).) Both statutes provide that a defendant’s inability to pay restitution due to indigence shall not be grounds for denial of diversion or a finding that the defendant has failed to comply with the terms of diversion. (Pen. Code, §§ 1001.36, subd. (f)(1)(D), 1001.96, subd. (b).)

The theft diversion states that a condition of diversion may include “[m]aking adequate restitution or an appropriate substitute for restitution to the establishment or person from which property was stolen at the face value of the stolen property, if required by the program.” (Pen. Code, § 1001.81, subd. (e)(2).)

Comparatively, the military diversion, caregiver diversion, and drug diversion programs are silent on victim restitution. (Pen. Code, §§ 1001.80; 1001.83; 1000.3.)

According to the sponsor of this bill, individual diversion statutes are inconsistent in its applicability to victim restitution which results in courts often not ordering victim restitution. Placing the authority to order diversion within the general restitution statute will ensure more even application and an avenue for enforcement after the period of diversion has ended. This bill will also apply the same rights to a hearing to determine the amount of restitution, if any, as exists for defendants who have been convicted. Consistent with diversion statutes, this bill would provide that a defendant’s inability to pay restitution due to indigence or mental disorder from being used as grounds for denial of diversion or a finding that the defendant has failed to comply with the terms of diversion.

Lastly, the bill contains language to ensure that the restitution order is made while the court has jurisdiction over the matter during the period of diversion, and specifies that if a defendant withdraws from diversion or fails to complete the terms of diversion, the order for restitution shall be suspended until the resolution of the criminal proceedings.

- 5) **Argument in Support:** According to the *San Diego District Attorney's Office*, the sponsor of this bill, "Only four out of the fourteen statutory forms of diversion mention restitution at all, and even these four are widely inconsistent in scope and procedure, and none of them offer victims the same strong, enforceable protections or expectations as traditional restitution under 1202.4. As stated, the remaining ten diversion statutes are completely silent on restitution, meaning a defendant who has harmed a victim can also enjoy the ability to leave that victim uncompensated and without a remedy in the criminal case.

"For example, a defendant with PTSD, charged with VC23153 after driving under the influence and injuring the victim, might be eligible for diversion under PC 1001.80(n)(1). Because military diversion is silent on restitution, the court would lack any statutory authority to order the defendant to pay restitution to cover the victim's medical bills or car repair bills. Similarly, a person who gets frustrated and breaks his neighbor's lawn ornaments might earn a dismissal of the vandalism charge under PC 1001.83 simply due to the fact that he cares for a child. Because primary caretaker diversion does not independently confer restitution authority, the court would lack statutory jurisdiction to order compensation for the neighbor's broken property.

"AB 2297 expands Penal Code section 1202.4 to keep up with the increase in diversion opportunities for defendants. It provides for uniformity in cases by placing all restitution expectations in one place, and it ensures that as newer opportunities for diversion are created in the future, victims will never be forgotten. Rehabilitation and accountability need not conflict, and by allowing restitution in diversion cases, the Legislature can reaffirm its commitment to both."

- 6) **Argument in Opposition:** According to *Justice2Jobs Coalition*, "Under current California law, courts already have the authority to order restitution in many diversion contexts. For example, under mental health diversion, courts must determine whether restitution is owed and order its payment during the diversion period. Similarly, misdemeanor diversion requires people to pay restitution in full as a condition of dismissal, while explicitly recognizing that inability to pay due to indigence cannot be grounds for denial of diversion or failure to comply. AB 2297 is largely duplicative of existing statutory authority.

"To the extent the bill seeks to expand restitution to diversion programs that do not currently include such provisions such as drug diversion, military diversion, etc. or to mandate restitution across local diversion programs, it raises significant concerns. Local jurisdictions have developed diversion programs, including Behavioral Health Courts, Veterans Justice Courts, and reentry-focused programs, that are designed to promote stability, treatment, and long-term accountability. Imposing restitution in all diversion cases would impose a one-size-fits-all mandate that may undermine the effectiveness of these programs.

"State law also already requires the imposition of an up to \$1,000 'diversion restitution fee' on anyone charged with a felony or misdemeanor whose case is diverted. Revenue from this fee is deposited into the state Restitution Fund which provides compensation to people who experience loss or injury. More fundamentally, requiring restitution from people in diversion runs counter to the purpose of diversion itself. Diversion is premised on the understanding that individuals have not been convicted of a crime and, in many cases, may have their charges dismissed upon successful completion. The right to restitution only applies to '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.’ Treating diverted individuals as if they have been adjudicated guilty—by imposing financial liability tied to an alleged offense—blurs this distinction and risks imposing consequences without conviction.”

- 7) **Related Legislation:** AB 46 (Nguyen) makes various changes to the mental health diversion law, including changing the public safety standard for finding a particular defendant suitable for diversion. AB 46 is pending hearing in the Senate Appropriations Committee.
- 8) **Prior Legislation:**
- a) AB 1213 (Stefani), Chapter 184, Statutes of 2025, clarifies that a restitution order be paid before all fines, restitution fines, penalty assessments, and other fees, as specified.
 - b) AB 1803 (Jones-Sawyer), Chapter 494, Statutes of 2022, prohibited a court from denying expungement relief to an otherwise qualified person, and who meets the criteria, as specified, for a waiver of court fees and costs, solely on the basis that the person has not yet satisfied their restitution obligations.
 - c) SB 1106 (Wiener), Chapter 734, Statutes of 2022, prohibited the denial of a petition for expungement relief, the denial of release on parole to another state, and the denial of a petition for reduction of a conviction, solely on the basis that the person has not yet satisfied their restitution obligations.
 - d) SB 651 (Leyva), Chapter 131, Statutes of 2015, expanded the definition of “victim” in juvenile proceedings to include a corporation, estate, or other legal or commercial entity when that entity is a direct victim of a crime and a person who has sustained economic loss because of a crime and who satisfies specified conditions.
 - e) AB 576 (Torres), Chapter 454, Statutes of 2009, expanded the definition of a “victim” for the purposes of restitution to include any governmental entity responsible for repairing, replacing or restoring public and privately owned property defaced with graffiti or other inscribed material, as specified, and has sustained economic loss as a result.

REGISTERED SUPPORT / OPPOSITION:

Support

California District Attorneys Association
California Police Chiefs Association
League of California Cities
Riverside County District Attorney
San Diego County District Attorney's Office

Opposition

ACLU California Action
California Public Defenders Association
Debt Free Justice California

Initiate Justice
Justice2jobs Coalition
LA Defensa

Analysis Prepared by: Stella Choe / PUB. S. / (916) 319-3744