

ASSEMBLY THIRD READING
AB 2297 (Stefani)
As Amended March 26, 2026
Majority vote

SUMMARY

Applies the general restitution statute to defendants who enter a diversion program.

Major Provisions

- 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.

COMMENTS

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."

Arguments 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 Post Traumatic Stress Disorder (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."

Arguments 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."

FISCAL COMMENTS

Unknown. This bill is keyed non-fiscal by the Legislative Counsel.

VOTES

ASM PUBLIC SAFETY: 8-0-1

YES: Schultz, Alanis, Mark González, Haney, Harabedian, Lackey, Nguyen, Ramos

ABS, ABST OR NV: Sharp-Collins

UPDATED

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