

**Cherokee Nation Code Annotated**  
**Title 22: Criminal Procedure**  
**Chapter 16: Judgment and Execution**  
**§ 991F. Definitions**  
Cite as: 22 CNCA § 991F

A. For the purposes of any provision of Title 22 of the Cherokee Nation Code relating to criminal sentencing and restitution orders:

1. "Restitution" means the sum to be paid by the defendant to the victim of the criminal act to compensate that victim for up to three times the amount of the economic loss suffered as a direct result of the criminal act of the defendant;
2. "Victim" means any person, partnership, corporation or legal entity that suffers an economic loss as a direct result of the criminal act of another person;
3. "Economic loss" means actual financial detriment suffered by the victim consisting of medical expenses actually incurred, damage to or loss of real and personal property and any other out-of-pocket expenses, including loss of earnings, reasonably incurred as the direct result of the criminal act of the defendant. No other elements of damage shall be included as an economic loss for purposes of this section.

B. In all criminal prosecutions and juvenile proceedings in the Cherokee Nation, when the court enters an order directing the offender to pay restitution to any victim for economic loss or to pay to the Nation any fines, fees or assessments, the order, for purposes of validity and collection, shall not be limited to the maximum term of imprisonment for which the offender could have been sentenced, nor limited to any term of probation, parole, or extension thereof, nor expire until fully satisfied. The court order for restitution, fines, fees or assessments shall remain a continuing obligation of the offender until fully satisfied, and the obligation shall not be considered a debt, nor shall the obligation be dischargeable in any bankruptcy proceeding. The court order shall continue in full force and effect with the supervision of the Cherokee Nation until fully satisfied, and the Nation shall use all methods of collection authorized by law.

C. 1. Upon conviction for any crime wherein property has been stolen, converted or otherwise unlawfully obtained, or its value substantially decreased as a direct result of the crime, or wherein the crime victim suffered injury, loss of income, or out-of-pocket loss, the individuals criminally responsible shall be sentenced to make restitution. Restitution may be ordered in addition to the punishments prescribed by law.

2. The court shall order full restitution based upon the following considerations:

a. the nature and amount of restitution shall be sufficient to restore the crime victim to the equivalent economic status existing prior to the losses sustained as a direct result of the crime, and may allow the crime victim to receive payment in excess of the losses sustained; provided, the excess amount of restitution shall not be more than treble the actual economic loss incurred, and

b. the amount of restitution shall be established regardless of the financial resources of the offender.

3. The court:

a. may direct the return of property to be made as soon as practicable and make an award of restitution in the amount of the loss of value to the property itself as a direct result of the crime, including out-of-pocket expenses and loss of earnings incurred as a result of damage to or loss of use of the property, the cost to return the property to the victim or to restore the property to its pre-crime condition whichever may be appropriate under the circumstances,

b. may order restitution in a lump sum or by such schedules as may be established and thereafter adjusted by agreement consistent with the order of the court.

c. shall have the authority to amend or alter any order of fines, costs and/or restitution made pursuant to this section providing that the court shall state its reasons and conclusions as a matter of record for any change or amendment to any previous order,

d. may order interest upon any ordered restitution sum to accrue at the rate of twelve percent (12%) per annum until the restitution is paid in full. The court may further order such interest to be paid to the victims of the crime or proportion the interest payment between the victims and the court fund, in the discretion of the court, and

e. shall consider any pre-existing orders imposed on the defendant, including, but not limited to, orders imposed under civil and criminal proceedings.

D. If restitution to more than one person, agency or entity is set at the same time, the court shall establish the following priorities of payment:

1. The crime victim or victims; and

2. Cherokee Nation and any other government agency which has provided reimbursement to the victim as a result of the offender's criminal conduct.

E. The Attorney General's Office shall present the crime victim's restitution claim to the court at the time of the sentencing of the offender or the restitution provisions shall be included in the written plea agreement presented to the court, in which case, the restitution claim shall be reviewed by the judge prior to acceptance of the plea agreement.

F. The court shall conduct such hearings or proceedings as it deems necessary to set restitution and payment schedules at the time of sentencing or may bifurcate the sentencing and defer the hearing or proceedings relating to the imposition of restitution as justice may require. Amendments or alterations to the restitution order may be made upon the court's own motion, petition by the victim or petition by the offender.

G. An offender who files a meritless or frivolous petition for amendment or alteration to the restitution order shall pay the costs of the proceeding on the petition and shall have added to the existing restitution order the additional loss of earnings and out-of-pocket loss incurred by the crime victim in responding to the petition.

H. If a defendant who is financially able refuses or neglects to pay restitution as ordered by this section, payment may be enforced:

1. By contempt of court as provided in subsection A of Section 566 of Title 21 of the Cherokee Nation Code with imprisonment or fine or both;
2. In the same manner as prescribed in subsection N of this section for a defendant who is without means to make such restitution payment; or
3. Revocation of the criminal sentence if the sentence imposed was a suspended or deferred sentence or a community sentence.

I. If the defendant is without means to pay the restitution, the judge may direct the total amount due, or any portion thereof, to be entered upon the court minutes and to be certified in the district court where it shall then be entered upon the district court judgment docket and shall have the full force and effect of a district court judgment in a civil case. Thereupon the same remedies shall be available for the enforcement of the judgment as are available to enforce other judgments; provided, however, the judgment herein prescribed shall not be considered a debt nor dischargeable in any bankruptcy proceeding.

J. Whenever a person has been ordered to pay restitution as provided in this section or any section of the Cherokee Nation Code for a criminal penalty, the judge may order the defendant to a term of community service, with or without compensation, to be credited at a rate of Ten Dollars (\$10.00) per day against the total amount due for restitution. If the defendant fails to perform the required community service authorized by this subsection or

if the conditions of community service are violated, the judge may impose a term of imprisonment not to exceed five (5) days in the county jail for each failure to comply.

K. Nothing in subsections H through J of this section shall be construed to be additions to the original criminal penalty, but shall be used by the court as sanctions and means of collection for criminal restitution orders and restitution orders that have been reduced to judgment.

#### Historical Data

LA 10–90, eff. November 13, 1990. Amended LA 08-21, eff. February 22, 2021.