

United States Code Annotated

Title 18. Crimes and Criminal Procedure (Refs & Annos)

Part I. Crimes (Refs & Annos)

Chapter 110. Sexual Exploitation and Other Abuse of Children (Refs & Annos)

18 U.S.C.A. § 2259

§ 2259. Mandatory restitution

Effective: December 7, 2018

[Currentness](#)

**(a) In general.**--Notwithstanding [section 3663](#) or [3663A](#), and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

**(b) Scope and nature of order.**--

**(1) Directions.**--Except as provided in paragraph (2), the order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses.

**(2) Restitution for trafficking in child pornography.**--If the defendant was convicted of trafficking in child pornography, the court shall order restitution under this section in an amount to be determined by the court as follows:

**(A) Determining the full amount of a victim's losses.**--The court shall determine the full amount of the victim's losses that were incurred or are reasonably projected to be incurred by the victim as a result of the trafficking in child pornography depicting the victim.

**(B) Determining a restitution amount.**--After completing the determination required under subparagraph (A), the court shall order restitution in an amount that reflects the defendant's relative role in the causal process that underlies the victim's losses, but which is no less than \$3,000.

**(C) Termination of payment.**--A victim's total aggregate recovery pursuant to this section shall not exceed the full amount of the victim's demonstrated losses. After the victim has received restitution in the full amount of the victim's losses as measured by the greatest amount of such losses found in any case involving that victim that has resulted in a final restitution order under this section, the liability of each defendant who is or has been ordered to pay restitution for such losses to that victim shall be terminated. The court may require the victim to provide information concerning the amount of restitution the victim has been paid in other cases for the same losses.

**(3) Enforcement.**--An order of restitution under this section shall be issued and enforced in accordance with [section 3664](#) in the same manner as an order under [section 3663A](#).

**(4) Order mandatory.--(A)** The issuance of a restitution order under this section is mandatory.

**(B)** A court may not decline to issue an order under this section because of--

**(i)** the economic circumstances of the defendant; or

**(ii)** the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

**(c) Definitions.--**

**(1) Child pornography production.--**For purposes of this section and [section 2259A](#), the term “child pornography production” means conduct proscribed by [subsections \(a\) through \(c\) of section 2251](#), [section 2251A](#), [section 2252A\(g\)](#) (in cases in which the series of felony violations involves at least 1 of the violations listed in this subsection), [section 2260\(a\)](#), or any offense under chapter 109A or chapter 117 that involved the production of child pornography (as such term is defined in [section 2256](#)).

**(2) Full amount of the victim's losses.--**For purposes of this subsection, the term “full amount of the victim's losses” includes any costs incurred, or that are reasonably projected to be incurred in the future, by the victim, as a proximate result of the offenses involving the victim, and in the case of trafficking in child pornography offenses, as a proximate result of all trafficking in child pornography offenses involving the same victim, including--

**(A)** medical services relating to physical, psychiatric, or psychological care;

**(B)** physical and occupational therapy or rehabilitation;

**(C)** necessary transportation, temporary housing, and child care expenses;

**(D)** lost income;

**(E)** reasonable attorneys' fees, as well as other costs incurred; and

**(F)** any other relevant losses incurred by the victim.

**(3) Trafficking in child pornography.--**For purposes of this section and [section 2259A](#), the term “trafficking in child pornography” means conduct proscribed by [section 2251\(d\)](#), [2252](#), [2252A\(a\)\(1\) through \(5\)](#), [2252A\(g\)](#) (in cases in which the series of felony violations exclusively involves violations of [section 2251\(d\)](#), [2252](#), [2252A\(a\)\(1\) through \(5\)](#), or [2260\(b\)](#)), or [2260\(b\)](#).

**(4) Victim.**--For purposes of this section, the term "victim" means the individual harmed as a result of a commission of a crime under this chapter. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the crime victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.

**(d) Defined monetary assistance.--**

**(1) Defined monetary assistance made available at victim's election.--**

**(A) Election to receive defined monetary assistance.**--Subject to paragraphs (2) and (3), when a defendant is convicted of trafficking in child pornography, any victim of that trafficking in child pornography may choose to receive defined monetary assistance from the Child Pornography Victims Reserve established under section 1402(d)(6) of the Victims of Crime Act of 1984 ([34 U.S.C. 20101\(d\)](#)).

**(B) Finding.**--To be eligible for defined monetary assistance under this subsection, a court shall determine whether the claimant is a victim of the defendant who was convicted of trafficking in child pornography.

**(C) Order.**--If a court determines that a claimant is a victim of trafficking in child pornography under subparagraph (B) and the claimant chooses to receive defined monetary assistance, the court shall order payment in accordance with subparagraph (D) to the victim from the Child Pornography Victims Reserve established under section 1402(d)(6) of the Victims of Crime Act of 1984.

**(D) Amount of defined monetary assistance.**--The amount of defined monetary assistance payable under this subparagraph shall be equal to--

**(i)** for the first calendar year after the date of enactment of this subsection, \$35,000; and

**(ii)** for each calendar year after the year described in clause (i), \$35,000 multiplied by the ratio (not less than one) of--

**(I)** the Consumer Price Index for all Urban Consumers (CPI-U, as published by the Bureau of Labor Statistics of the Department of Labor) for the calendar year preceding such calendar year; to

**(II)** the CPI-U for the calendar year 2 years before the calendar year described in clause (i).

**(2) Limitations on defined monetary assistance.--**

**(A) In general.**--A victim may only obtain defined monetary assistance under this subsection once.

**(B) Effect on recovery of other restitution.**--A victim who obtains defined monetary assistance under this subsection shall not be barred or limited from receiving restitution against any defendant for any offenses not covered by this section.

**(C) Deduction.**--If a victim who received defined monetary assistance under this subsection subsequently seeks restitution under this section, the court shall deduct the amount the victim received in defined monetary assistance when determining the full amount of the victim's losses.

**(3) Limitations on eligibility.**--A victim who has collected payment of restitution pursuant to this section in an amount greater than the amount provided for under paragraph (1)(D) shall be ineligible to receive defined monetary assistance under this subsection.

**(4) Attorney fees.**--

**(A) In general.**--An attorney representing a victim seeking defined monetary assistance under this subsection may not charge, receive, or collect, and the court may not approve, any payment of fees and costs that in the aggregate exceeds 15 percent of any payment made under this subsection.

**(B) Penalty.**--An attorney who violates subparagraph (A) shall be fined under this title, imprisoned not more than 1 year, or both.

#### CREDIT(S)

(Added [Pub.L. 103-322, Title IV, § 40113\(b\)\(1\)](#), Sept. 13, 1994, 108 Stat. 1907; amended [Pub.L. 104-132, Title II, § 205\(c\)](#), Apr. 24, 1996, 110 Stat. 1231; [Pub.L. 115-299, §§ 3\(a\), \(b\), 4](#), Dec. 7, 2018, 132 Stat. 4384, 4385.)

18 U.S.C.A. § 2259, 18 USCA § 2259  
Current through P.L. 116-68.