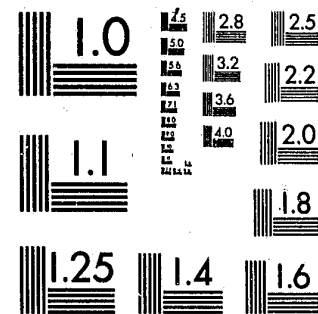


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IN DELINQUENCY CASES

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RESTITUTION AND COMMUNITY SUPERVISION
AS DISPOSITIONAL ALTERNATIVES IN DELINQUENCY CASES

Introduction

This report was prepared in response to a request from the Special Emphasis Division of the Office of Juvenile Justice and Delinquency Prevention. As part of its preparation for testimony before the Senate Subcommittee on Juvenile Justice regarding the impact of restitution program initiative, the Special Emphasis Division requested a survey of all 51 juvenile and family court acts (50 states and the District of Columbia) to determine which states authorize restitution and/or community service as dispositional alternatives for juvenile delinquents and, if possible, whether such legislation had been passed in each state before or after February 28, 1978, the beginning date of OJJDP's restitution initiative. This is the written report of the results of our research, including the text of relevant statutory sections and both a narrative and tabular summary of findings.

Findings

Thirty-four states expressly authorize the juvenile court to impose restitution as a disposition or condition of probation in delinquency cases.¹ In two more states, although authority is not expressly granted by the statute, it is clearly implied.² Twenty-one states expressly authorize imposition of a community service requirement as a disposition or condition of probation in delinquency cases,³ and Arkansas' statute declares it to be state policy. Eighteen of these states authorize both restitution and community service dispositions.⁴ Only eleven jurisdictions do not specifically identify either restitution or community service as potential dispositions or probation conditions in delinquency cases.⁵

¹Alabama, Alaska, Arizona, California, Colorado, Connecticut, Florida, Hawaii, Idaho, Indiana, Kansas, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Utah, Virginia, Washington, Wisconsin, Wyoming.

²Arkansas, New Mexico.

³Arizona, California, Connecticut, Florida, Hawaii, Illinois, Iowa, Kentucky, Maine, Massachusetts, Mississippi, Missouri, Nevada, New York, North Carolina, Pennsylvania, South Carolina, Virginia, Washington, Wisconsin, Wyoming.

⁴Arizona, Arkansas, California, Connecticut, Florida, Hawaii, Maine, Massachusetts, Mississippi, Missouri, New York, North Carolina, Pennsylvania, South Carolina, Virginia, Washington, Wisconsin, Wyoming.

⁵Delaware, District of Columbia, Georgia, Michigan, New Jersey, North Dakota, Oklahoma, Tennessee, Texas, Vermont, West Virginia.

No jurisdiction prohibits such dispositional orders or conditions of probation. In all likelihood, the usual broad language of juvenile court disposition statutes, authorizing the court to order any other appropriate disposition or to place a delinquent on probation subject to such conditions as the court may decide will contribute to his rehabilitation or similar language, would, in the absence of case law to the contrary, permit the court to direct a juvenile to make restitution or perform community service as a condition of probation.

It should be understood, therefore, that the absence of specific grant of authority for either or both of these dispositional alternatives in the juvenile code of any state does not indicate that such dispositions may not be ordered or imposed as conditions of probation. Whether or not the court's general dispositional authority is broad enough to encompass such orders in the absence of specific language is a question of statutory construction which may or may not have been answered by the appellate courts in each state, but which was in any event beyond the scope of this study.

The table which follows indicates the presence or absence in each state's juvenile code of an express reference to the authority of the court or probation department to impose restitution or community service as a disposition or condition of probation in delinquency cases. Following the table, the text of the relevant statutory provision in each state is presented, with an indication of how long such a provision has existed in each state's code, and an indication of the currency of our information on legislation in each state. Legislative enactments or amendments which may have occurred after the currency date shown for each state were not reviewed in the preparation of this report.

SUMMARY CHART

4

STATE	RESTITUTION	COMMUNITY SERVICE
1. Alabama	X	
2. Alaska	X	
3. Arizona	X	X
4. Arkansas	X	X
5. California	X	X
6. Colorado	X	
7. Connecticut	X	X
8. Delaware		
9. District of Columbia		
10. Florida	X	X
11. Georgia		
12. Hawaii	X	X
13. Idaho	X	
14. Illinois		X
15. Indiana	X	
16. Iowa		X
17. Kansas	X	
18. Kentucky		X
19. Louisiana	X	
20. Maine	X	X
21. Maryland	X	
22. Massachusetts	X	X
23. Michigan		
24. Minnesota	X	
25. Mississippi	X	X
26. Missouri	X	X
27. Montana	X	
28. Nebraska	X	
29. Nevada		X
30. New Hampshire	X	
31. New Jersey		
32. New Mexico	X	
33. New York	X	X
34. North Carolina	X	X
35. North Dakota		
36. Ohio	X	
37. Oklahoma		
38. Oregon	X	
39. Pennsylvania	X	X
40. Rhode Island	X	
41. South Carolina	X	X
42. South Dakota	X	
43. Tennessee		
44. Texas		
45. Utah	X	
46. Vermont		
47. Virginia	X	X
48. Washington	X	X
49. West Virginia		
50. Wisconsin	X	X
51. Wyoming	X	X
TOTAL	36	22

5

1. ALABAMA

(c) If a child is found to be delinquent or in need of supervision, the court may make any of the following orders or dispositions for his supervision, care and rehabilitation:....

(5) Make such other order as the court in its discretion shall deem to be for the welfare and best interests of the child, including assessment of fines not to exceed \$250.00 and such restitution as the court deems appropriate.

Ala. Code § 12-15-71(c)(5).
Code enacted in 1975.

Currency: 1-31-81

2. ALASKA

(b) If the court finds that the minor is delinquent, it shall....

(4) order the minor to make suitable restitution in lieu of or in addition to the court's order under (1), (2) or (3) of this subsection.

Alaska Stat. § 47.10.080(b)(4).
Statute enacted in 1977.

Currency: 1-8-81

3. ARIZONA

C. The court may, after considering the nature of the offense and the age, physical and mental condition and earning capacity of the child, order the following dispositions for a delinquent child, either as exclusive dispositions or in addition to the dispositions provided by subsection A, paragraph 2, subdivisions (a) through (c) and (f) of this section:

1. To make full or partial restitutions to the victim of the offense for which the child was adjudicated delinquent. The court shall notify the victim of the dispositional hearing. The court may consider a verified statement from the victim concerning damages for lost wages, reasonable damages for injury to or loss of property and actual expenses of medical treatment for personal injury, excluding pain and suffering.
2. To pay a reasonable monetary penalty if the court determines that such penalty is in aid of rehabilitation.

(D) The court may allow the restitution or monetary penalty imposed under subsection C of this section to be satisfied in either of the following forms:

1. Monetary reimbursement by the youth in lump sum or installment payments through the clerk of the superior court for appropriate distribution.
2. A program of work, not in conflict with regular schooling, to repair damage to the victim's property, to provide community service or to provide the youth with a job for wages.

The court order for restitution or monetary penalty shall specify, according to the dispositional program, the amount of reimbursement and the portion of wages of either existing or provided work that is to be credited toward satisfaction of the restitution or penalty, or the nature of the work to be performed and the number of hours to be spent working.

A.R.S.A. § 8-241 C and D.

Currency: 1-1-81

Statute enacted in 1977, amended in 1979.

4. ARKANSAS

Section 10. It is also the policy of this State to correct juveniles for their acts of delinquency, to require restitution and to utilize such delinquent juveniles in public service jobs.

Ark. Act 815 of 1979, § 10.

Currency: 12-31-80

Statute enacted in 1979.

5. CALIFORNIA

728. Repairing damage. If a minor is found to be a person described in Section 602 by reason of the commission of vandalism, and the court does not remove the minor from the physical custody of the parent or guardian, the court as a condition of probation, except in any case in which the court makes a finding and states on the record its reasons that such condition would be inappropriate, shall require the minor to wash, paint, repair or replace the defaced, damaged or destroyed property, or otherwise make restitution to the property owner. If restitution is found to be inappropriate, the court, except in any case in which the court makes a finding and states on the record its reasons that such condition would be inappropriate, shall require the minor to perform specified community service. Nothing in this section shall be construed to limit the authority of a juvenile court to provide conditions of probation.

731. Commitment to Youth Authority. When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 602, the court may order any of the types of treatment referred to in Sections 727 and 730, and, in addition may order the ward to make restitution or to participate in uncompensated work programs or may commit the ward to a sheltered-care facility or may order that the ward and his or her family or guardian participate in a program of professional counseling as arranged and directed by the probation officer as a condition of continued custody of such minor or may commit the minor to the Department of the Youth Authority.

731.5. Public service--petty theft. In addition to the provisions of Section 731, if a minor's conduct constitutes a violation of Section 490.5 of the Penal Code, the court may require the minor to perform public services designated by the court.

West's Ann. Welf. & Inst. Code § 728, § 731, § 731.5.

§ 728 enacted 1979; § 731 enacted 1975;

§ 731.5 enacted 1976.

Currency: 12-12-80

6. COLORADO

(4) In addition to any of the provisions in subsection (3) of this section, a decree of disposition entered pursuant to this section shall, in those instances the court finds damage has been done, contain a requirement that the child pay for any damage done to persons or property, upon such conditions as the court may deem best, unless payment causes serious hardship or injustice to the child.

C.R.S.A. § 19-3-113(e)(4).

Statute probably enacted in 1979.

Currency: 1-7-81

7. CONNECTICUT

(a) The court, if it finds that the child is delinquent and needs the care, discipline or protection of the state, may adjudge him delinquent and place him the care of any institution or agency which is permitted by law to care for children, order the child to remain in his own home or in the custody of a relative or any other fit person subject to the supervision of the probation officer or withhold or suspend execution of any judgment. The court may also order such child to do work of which he is capable in public buildings and on public property or make restitution of the fruits of his offense or make restitution in an amount he can afford to pay or provide in a suitable manner for the loss or damage caused thereby, particularly in cases in which the adjudication of delinquency was upon an allegation that the conduct of such child resulted in the wilful destruction of property; provided competent acceptance of such disposition has been given by the child and his parent or guardian.

Conn. Gen. Stat. Ann. § 46b-140(a).
Date of enactment unknown.

Currency: 1980 Leg. Session

10. FLORIDA

(1) When any child shall be adjudicated by the court to have committed a delinquent act, the court having jurisdiction of the child shall have the power, by order in which is stated the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing, to:

(a) Place a child in a community control program under the supervision of an authorized agent of the department, either in the child's own home or, the prospective custodian being willing, in the home of a relative of the child or in some other suitable place under such reasonable conditions as the court may direct. A community control program is as defined in § 39.01(10) and shall include a penalty such as restitution, curfew, revocation or suspension of the child's driver's license, or other non-institutional punishment appropriate to the offense and a rehabilitative program.

....

(g) Require the child to render a public service in a public service program.

(h) Order, as part of the community sanction and rehabilitative program to be implemented by the department counselor, the child to make restitution for the damage or loss caused by his offense

in a reasonable amount or manner to be determined by the court. The court may require the clerk of the circuit court to be the receiving and dispensing agent.

(i) Order the child to participate in a community work project, either as an alternative to monetary restitution or as part of the rehabilitative or community control program.

F.S.A. § 39.11(1)(a), (g), (h), (i).
Statute in existence at least since 1979.

Currency: 4-81

12. HAWAII

Sec. 571-48 Decree, if informal adjustment or diversion to a private or community agency or program has not been effected. When a minor is found by the court to come within section 571-11, the court shall so decree and in its decree shall make a finding of the facts upon which the court exercises its jurisdiction over the minor. Upon such decree the court shall, by order duly entered, proceed as follows:

(1) As to a child adjudicated under section 571-11(1):

....

(c) The court may fine the child for a violation which would be theft in the third degree by shoplifting if committed by an adult. The court may require the child to perform public services in lieu of the fine.

(11) The court may order any person adjudicated pursuant to section 571-11(1) to make restitution of money or services to any victim who suffers loss as a result of the child's action, or to render community service.

(12) The court may order any person adjudicated pursuant to section 571-11(2) to participate in community service.

Hawaii Rev. Stat. § 571-48(1)(c), (11), (12). Currency: 12-31-80
Statute enacted in 1980.

13. IDAHO

16-1814. Decree--Probation--Commitment--Medical or remedial treatment.-- When a child is found by the court to come within the provisions of section 16-1803 hereof, the court shall so decree and in its decree shall make a finding of the facts upon all allegations of the petition and conclusions of law therefrom, provided, however, that no decree other than one of discharge shall be entered until an inquiry into the environment, past history, and physical and mental condition of the child has been

made and a written report of such inquiry has been presented to and considered by the court. Upon entry of its decree, the court may proceed as follows:

....

(7) In cases where there is loss or damage of property, the court may provide for full or partial restitution in the manner and form prescribed by the court.

Idaho Code § 16-1841(7).
Statute enacted prior to 1977.

Currency: 1-1-81

14. ILLINOIS

(2) The court may as a condition of probation or of a conditional discharge require that the minor:

....

(n) perform some reasonable public service work such as but not limited to the picking up of litter in public parks or along public highways or the maintenance of public facilities, provided that no minor required to perform such public service work shall be assigned to work outside the municipality or township of his residence; or....

S.H.A. ch. 37, § 705-3(2)(n).
Statute in existence at least since 1977.

Currency: 1-1-81

15. INDIANA

(g) If the child is a delinquent child under section 1(b)(1) of this chapter, the juvenile court may:

....

(4) order him to pay restitution if the victim provides reasonable evidence of his loss, which the child may challenge at the dispositional hearing; or....

Ind. Ann. Stat. § 31-6-4-16(g)(4).
Section enacted 1978, amended 1979.

Currency: 9-30-80

16. IOWA

2. The dispositional orders which the court may enter are as follows:

a. An order prescribing a work assignment of value to the state or to the public, or prescribing restitution consisting of monetary payment or a work assignment of value to the victim. Such order may be the sole disposition or may be included as an element in other dispositional orders.

I.C.A. § 232.52(2)(a).

Currency: 2-24-81

Date of enactment unknown.

17. KANSAS

K.S.A.1978 Supp. 38-826, as amended by Substitute for Senate Bill No. 113, is hereby amended to read as follows: 38-826.

(a) When a child has been adjudged to be a delinquent child or a miscreant child under the provisions of this act, the judge of the district court may make one or more of the following orders:

....

(6) as a condition of probation, require the child to make restitution in an amount fixed by the court to persons whose property has been damaged by reason of acts of the child or to require the child to accept employment approved by the court for the purpose of providing funds to make restitution or to work for the person whose property has been damaged in order to make restitution for such damage.

K.S.A. § 38-826(6).

Currency: 12-31-80

Statute in existence at least since 1978.

18. KENTUCKY

(4) If a child sixteen (16) years of age or older has been adjudicated delinquent in the commission of an offense classified as a misdemeanor or violation, the court in its discretion may order as follows:

(a) Participation in a community services work program. The work program shall be of a constructive nature designed to promote the rehabilitation of the child. The program shall be appropriate to the age level and physical ability of the child and shall be combined with counseling from a probation officer or other responsible person. The work program shall not be scheduled during such times that would interfere with educational, occupational, or religious obligations of the child. Assignment to a community services work program shall

be made to a governmental or nonprofit community organization for a specified period of time, not to exceed one hundred and twenty (120) hours for a child adjudicated delinquent in the commission of a Class A misdemeanor, not to exceed eighty (80) hours for a child adjudicated delinquent in the commission of a Class B misdemeanor, and not to exceed forty (40) hours for a child adjudicated delinquent in the commission of an offense classified as a violation under the penal code. A child may be directed to participate in a community services work program as provided in this subsection for the purposes of restitution authorized by KRS 208.240.

Ky. Rev. Stat. Ann. § 208.200(4)(a).
Statute enacted prior to 1980.

Currency: 12-31-80

19. LOUISIANA

A. In cases in which a child has been adjudicated a delinquent the court may:

....

(8) Make such combination of the above dispositions or such other disposition as the court deems to be in the best interest of the child, including ordering the child to make reasonable restitution.

C.J.P. Art. 83A(8).
Statute in existence at least since 1979.

Currency: 1980 Leg. Session

20. MAINE

1. Dispositional alternatives. When a juvenile has been adjudicated as having committed a juvenile crime, the court shall enter a dispositional order containing one or more of the following alternatives:

....

B. The court may require a juvenile to participate in a supervised work or service program. Such a program may provide restitution to the victim by requiring the juvenile to work or provide a service for the victim, or to make monetary restitution to the victim from money earned from such a program. Such a supervised work or service program may be required as a condition of probation if:

(1) The juvenile is not deprived of the schooling which is appropriate to his age, needs and specific rehabilitative goals;

(2) The supervised work program is of a constructive nature designed to promote rehabilitation, is appropriate to the age level and physical ability of the juvenile, and is combined with counseling from a probation counselor, court worker or other guidance personnel; and

(3) The supervised work program assignment is made for a period of time not exceeding 180 days.

....

E. The court may require the juvenile to make restitution for any damage to persons or property, upon such reasonable conditions as the court deems appropriate.

15 M.R.S.A. § 3314, 1B, E.
Code enacted in 1977.

Currency: 12-31-80

21. MARYLAND

(e) The court may order the child who, wilfully or maliciously, steals, damages, or destroys the property of another or inflicts personal injury on another to make the restitution expenses himself if that is feasible considering the age and circumstances of the child; and if this is ordered, the liability of the child precedes the liability of the parent. The court may, in the alternative, enter a judgment of restitution against the child.

C.J. § 3-829(e).
Statute enacted prior to 1976.

Currency: 1980 Leg. Session

22. MASSACHUSETTS

§ 58. At the hearing of a complaint against a child the court shall hear the testimony of any witnesses that appear and take such evidence relative to the case as shall be produced. If the allegations against a child are proved beyond a reasonable doubt, he may be adjudged a delinquent child, or in lieu thereof, the court may continue the case without a finding and, with the consent of the child and at least one of the child's parents or guardians, place said child on probation. Said probation may include a requirement, subject to agreement by the child and at least one of the child's parents or guardians, that the child do work or participate in activities of a type and for a period of time deemed appropriate by the court.

....

§ 58B. If, under the provisions of section fifty-eight, a child is adjudged a delinquent child by reason of having violated any statute, by-law, ordinance or regulation relating to the operation of motor vehicles, the court may place the

case on file, or may place the child in the care of a probation officer, or may commit him to the custody of the department of youth services, as provided in section fifty-eight, and may require restitution as provided in section sixty-two; and in addition to or in lieu of such disposition, the court may impose upon such child a fine not exceeding the amount of the fine authorized for the violation of such statute, by-law, ordinance or regulation....

§ 62. Restitution or reparation by child to injured person
If, in adjudging a person a delinquent child, the court finds, an element of such delinquency, that he has committed an act involving liability in a civil action, and such delinquent child is placed on probation, the court may require, as a condition thereof, that he shall make restitution or reparation to the injured person to such an extent and in such sum as the court determines. If the payment is not made at once, it shall be made to the probation officer, who shall give receipt therefor, keep a record of the payment, pay the money to said injured person, and keep on file his receipt therefor.

M.S.L.A. ch. 119, § 58, § 58B, § 62. Currency: 2-24-81
§ 62 enacted 1906; § 58 enacted Oct. 27, 1976
to add pertinent language.

24. MINNESOTA

1. If the court finds that the child is delinquent, it shall enter an order making any of the following dispositions of the case which are deemed necessary to the rehabilitation of the child:

....

(e) If the child is found to have violated a state or local law or ordinance which has resulted in damage to the property of another, the court may order the child to make reasonable restitution for such damage;

M.S.A. § 260.185(1)(e). Currency: 11-30-80
Statute in existence at least since 1976.

25. MISSISSIPPI

§ 43-21-605. Disposition alternatives in delinquency cases.
(1) In delinquency cases, the disposition order may include any of the following alternatives or combination of the following alternatives, giving precedence in the following sequence:

....

(c) place the child on probation subject to any reasonable and appropriate conditions and limitations, including restitution, as the youth court may prescribe;

....

(e) order terms of supervision which may include participation in a constructive program of service or education or civil fines not in excess of Three Hundred Dollars (\$300.00), or restitution not in excess of actual damages caused by the child to be paid out of his own assets or by performance of services acceptable to the victims and approved by the youth court and reasonably capable of performance within one (1) year;

Miss. Code Ann. § 43-21-605(1).
Statute effective July 1, 1979.

Currency: 1-5-81

26. MISSOURI

3. When a child is found by the court to come within the provisions of subdivision (3) of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon which it exercises its jurisdiction over the child and the court may, by order duly entered, proceed as follows:

....

6. Order the child to make restitution or reparation for the damage or loss caused by his offense. In determining the amount or extent of the damage, the court may order the juvenile officer to prepare a report and may receive other necessary for such determination. The child and his attorney shall have access to any reports which may be prepared, and shall have the right to present evidence at any hearing held to ascertain the amount of damages. Any restitution or reparation ordered shall be reasonable in view of the child's ability to make payment or to perform the reparation. The court may require the clerk of the circuit court to act as receiving and disbursing agent for any payment ordered;

7. Order the child to a term of community service under the supervision of the court or of an organization selected by the court.

V.A.M.S. § 211.181.3.

Subsections (6) and (7) added by 1980 amendment.

Currency: 12-31-80

27. MONTANA

41-5-523. Disposition of delinquent youth and youth in need of supervision. (1) If a youth is found to be delinquent or in need of supervision, the court may enter its judgment making the following disposition:

....

(f) order restitution by the youth.

Mont. Rev. Codes Ann. § 41-5-523(1)(f). Currency: 1-1-81
Statute in existence at least since 1979.

28. NEBRASKA

43-210. Child under sixteen years of age; adjudication; alternatives given to court for disposition of case; child committed to care of Department of Correctional Services; proceedings when child is placed on probation or under supervision of court. When any child is adjudicated to be a child described in subdivision (3) or (4) of section 43-202, the court may:

(1) Continue the dispositional portion of the hearing, from time to time upon such terms and conditions as the court may prescribe, including an order of restitution of any property stolen or damaged when the same is in the interest of the child's reformation or rehabilitation and, subject to the further order of the court, may:

Neb. Rev. Stat. § 43-210(1).
Statute in existence at least since 1975.

Currency: 1980 Leg. Session

29. NEVADA

62.200 Procedure of court on entry of order.

1. If the court finds that the child is within the purview of this chapter, it shall so decree and may, by order duly entered, proceed as follows:

....

(e) Place the child, when he is not in school, under the supervision of a public organization to work on public projects. The person under whose supervision the child is placed shall keep such child busy and well supervised and shall make such reports to the court as it may require.

Nev. Rev. Stat. § 62.200(1)(e).
Statute in existence at least since 1977.

Currency: 12-31-80

30. NEW HAMPSHIRE

I. If the court finds that a minor is delinquent, the court may order the least restrictive of the following dispositions, which the court finds is the most appropriate:

....

(b) Fine the minor up to \$250, require restitution or both;

N.H.R.S.R.A. § 169-B:19 I(b). Currency: 12-30-80
Code enacted 1979. Similar provision
first enacted 1977.

32. NEW MEXICO

C. Nothing contained in this section limits the discretion of the court to issue an order requiring damages or restitution to be paid by the child when he has been found to be within the provisions of the Children's Code.

N.M. Stat. Ann. § 32-1-46C. Currency: 1980 Leg. Session
Statute in existence at least since 1973.

33. NEW YORK

(a) Rules of court shall define permissible terms and conditions of probation including restitution as set forth in this section.

....

(c) In cases involving the malicious acts of infants over ten and less than sixteen years of age, the court may order as condition of probation,

(1) restitution in amount representing a fair and reasonable cost to replace the property or repair the damage caused by the infant not, however, to exceed five hundred dollars and directing that the infant pay out of his own funds the amount of replacement or damage, either in a lump sum or in periodic payments in an amount set by the court; or

(2) services for public good, taking into consideration the age and physical condition of the infant.

(a) For purposes of section seven hundred fifty-three, the court may commit the respondent to the care and custody of an institution suitable for the commitment of a delinquent child maintained by any subdivision of the state, to a commissioner of social services, or to an authorized agency, subject to the further orders of the court.

Family Court Act § 757(a), (c)(1)(2); § 758(a). Currency: 1980 Leg. Session
Statute enacted 1962.

34. NORTH CAROLINA

7A-583. Dispositional alternatives for delinquent juvenile.--In the case of any juvenile who is delinquent, the judge may:

....

(2) require restitution, full or partial, payable within a 12-month period to any person who has suffered loss or damage as a result of the offense committed by the juvenile. The judge may determine the amount, terms, and conditions of the restitution. If the juvenile participated with another person or persons, all participants should be jointly and severally responsible for the payment of restitution; however, the judge shall not require the juvenile to make restitution if the juvenile satisfies the court that he does not have, and could not reasonably acquire, the means to make restitution;

....

(4) order the juvenile to perform supervised community service consistent with the juvenile's age, skill, and ability, specifying the nature of the work and the number of hours required. The work shall be related to the seriousness of the juvenile's offense and in no event may the obligation to work exceed 12 months;

N.C. Gen. Stat. § 7A-583(2), (4).
Code enacted 1979.

Currency: 6-4-80

36. OHIO

(A) If a child is found by the court to be a delinquent child, the court may make any of the following orders of disposition:

....

(7) Require the child to make restitution for all or part of the property damage caused by his delinquent act and for all or part of the value of the property that was the subject of any delinquent act that he committed and that would be a theft offense, as defined in division (K) of section 2913.01 of the Revised Code, if committed by an adult. If the court determines that the victim of the child's delinquent act was sixty-five years of age or older or permanently and totally disabled at the time of the commission of the act, the court shall, regardless of whether or not the child knew the age of the victim, consider this fact in favor of imposing restitution, but that fact shall not control the decision of the court.

Ohio Rev. Code Ann. § 2151.355(A)(7).
Statute enacted in 1977 or 1978.

Currency: 12-11-80

38. OREGON

419.507 Child as ward of the court; court's authority over child; Children's Services Division's authority over child; plan for medical care or special treatment. A child found to be within the jurisdiction of the court as provided in subsection (1) of ORS 419.476, may be made a ward of the court. Where a child has been found to be within its jurisdiction, and when the court determines it would be in the best interest and welfare of the child, the court may:

(1) Place the child on probation or under protective supervision. The court may direct that the child remain in the legal custody of his parents or other person with whom he is living or may direct that the child be placed in the legal custody of some relative or some person maintaining a foster home approved by the court, or in a child care center or a youth care center authorized to accept the child. The court may specify particular requirements to be observed during the probation or protective supervision consistent with recognized juvenile court practice, including but not limited to restrictions on visitation by the child's parents, restrictions on the child's associates, occupation and activities, restrictions on and requirements to be observed by the person having the child's legal custody and requirements for visitation by and consultation with a juvenile counselor or other suitable counselor. Restitution for property taken, damaged or destroyed by the child may be required as a condition of probation.

Ore. Rev. Stat. § 419.507(1).

Statute in existence at least since 1975.

Currency: 12-31-80

39. PENNSYLVANIA

(a) General rule.--If the child is found to be a delinquent child the court may make any of the following orders of disposition best suited to his treatment, supervision, rehabilitation, and welfare:

....

(5) Ordering payment by the child of reasonable amounts of money as fines, costs or restitution as deemed appropriate as part of the plan of rehabilitation considering the nature of the acts committed and the earning capacity of the child.

42 Pa. C.S.A. § 6352(a)(5).

Statute in existence at least since 1972.

Currency: 2-24-81

40. RHODE ISLAND

14-1-32. Power of court to order disposition of child.--If the court shall find that a child is delinquent, wayward, neglected, dependent or otherwise within the provisions of this chapter, it may by order duly entered proceed as follows:

Place the child on probation or under supervision in his own home or in the custody of a relative or other suitable person, or in the custody of any of the agencies, societies or institutions under the control of or approved by the department of social and rehabilitative services, upon such terms as the court shall determine; provided, however, that if the court shall find that a child is delinquent or wayward for any offense which has resulted in damage to the property of another, then in that event the court may order that appropriate monetary restitution be made forthwith to the owner of said damaged property by said child, his or her parent, parents or guardian or other lawful custodian upon examination and after a finding that said child or his or her parent, parents, guardian or other lawful custodian has the ability to pay said restitution.

R.I. Gen. Laws Ann. § 14-1-32.
Statute in existence at least since 1976.

Currency: 1979 Leg. Session

41. SOUTH CAROLINA

The court may impose restitution or participation in supervised work or community service as a condition of probation. Juvenile Placement and Aftercare, in coordination with local community agencies, shall develop and encourage employment of a constructive nature designed to make reparation and to promote the rehabilitation of the child. If the Court imposes as a condition of probation a requirement that restitution in a specified amount be paid, the amount to be paid as restitution may not exceed Five Hundred dollars. The Department of Juvenile Placement and Aftercare shall develop a system for the transferring of any court ordered restitution from the juvenile to the victim or owner of any property injured, destroyed or stolen.

S.C. Code Ann. § 14-21-620(a).
Added by 1980 amendment, effective May 24, 1980.

Currency: 1980 Leg. Session

42. SOUTH DAKOTA

26-8-39.2 Payment for property damaged by child.--The court may require a child to pay for any damage done to property, upon such conditions as the court may deem best, when such payment can be enforced without serious hardship or injustice to the child.

S.D.C.L. Ann. § 26-8-39.2.
Statute enacted in 1974.

Currency: 1980 Leg. Session

45. UTAH

When a child is found to come within the provisions of section 78-3a-16, the court shall so adjudicate, and make a finding of the facts upon which it bases its jurisdiction over the child. Upon such adjudication, the court may make the following dispositions by court order:

....

(7) The court may order that the child be required to repair or replace or to otherwise make restitution for damage or loss caused by his wrongful act, and may impose fines in limited amounts.

Utah Code Ann. § 78-3a-39(7).
Statute enacted 1965.

Currency: 12-31-80

47. VIRGINIA

E. If a child is found to be delinquent, the juvenile court or the circuit court may make any of the following orders of disposition for his supervision, care and rehabilitation:

....

7. Require the child to make restitution or reparation to the aggrieved party or parties for actual damages or loss caused by the offense for which the child was found to be delinquent.

Va. Code Ann. (1979 Supp.) § 16.1-279E.7.
Statute in existence at least since 1979.

Currency: 5-20-80

Note: Digest of Acts of the 1980 Session states:

16.1-279 amended. Delinquent children. Authorizes juvenile courts to order as a dispositional alternative for children adjudicated to be delinquent that they participate in public service projects.

48. WASHINGTON

13.40.190 Disposition order--Restitution for loss, or service for the public good--Waiver or modification of restitution. (1) In its dispositional order, the court shall require the respondent to make restitution to any persons who have suffered loss or damage as a result of the offense committed by the respondent. The payment of restitution shall be in addition to any punishment which is imposed pursuant to the other provisions of this chapter. The court may determine the amount, terms, and conditions of the restitution. If the respondent participated in the

crime with another person or other persons, all such participants shall be jointly and severally responsible for the payment of restitution. The court may not require the respondent to pay full or partial restitution and could not reasonably acquire the means to pay such restitution. In cases where an offender has been committed to the department for a period of confinement exceeding fifteen weeks, restitution may be waived.

(2) A respondent under obligation to pay restitution may petition the court for modification of the restitution order.

13.40.200 Violation of order of restitution, community supervision, or confinement--Modification of order after hearing--Scope--Rights....

(2) The hearing shall afford the respondent the same due process of law as would be afforded an adult probationer. The court may issue a summons or a warrant to compel the respondent's appearance. The state shall have the burden of proving by a preponderance of the evidence the fact of the violation. The respondent shall have the burden of showing that the violation was not a willful refusal to comply with the terms of the order. If a respondent has failed to pay a fine or restitution or to perform community service hours, as required by the court, it shall be the respondent's burden to show that he or she did not have the means and could not reasonably have acquired the means to pay the fine or restitution or perform community service.

....

(3)(b) If the violation of the terms of the order under (a) of this subsection is failure to pay fines, complete community service, or make restitution, the term of confinement imposed under (a) of this subsection shall be assessed at a rate of one day of confinement for each twenty-five dollars or eight hours owed.

R.C.W. § 13.40.190 &
R.C.W. § 13.40.200(2), (3)(b).
Code enacted 1977, amended 1979.

Currency: 1-1-81

50. WISCONSIN

48.34 Disposition of child adjudged delinquent. If the judge adjudges a child delinquent, he or she shall enter an order deciding one or more of the dispositions of the case as provided in this section under a care and treatment plan, except that subs. (4m) and (8) shall be exclusive dispositions:

....

(5) If the child is found to have committed a delinquent act which has resulted in damage to the property of another, or actual physical injury to another excluding pain and suffering, the judge may order the child to repair damage to property or to make reasonable restitution for the damage or injury if the judge considers it beneficial to the well-being and behavior of the child. Any such order shall include a finding that the child alone is financially able to pay and allow up to 12 months for the payment. Objection by the child to the amount of damages claimed shall entitle the child to a hearing on the question of damages before the amount of restitution is ordered.

....

(9) Supervised Work Program. (a) The judge may utilize as a dispositional alternative court-ordered participation in a supervised work program. The judge shall set standards for the program within the budgetary limits established by the county board. The work program may provide the child reasonable compensation reflecting a reasonable market value of the work performed, or it may consist of uncompensated community service work, and shall be administered by the county department of public welfare or a community agency approved by the judge.

(b) The supervised work program shall be of a constructive nature designed to promote the rehabilitation of the child, shall be appropriate to the age level and physical ability of the child and shall be combined with counseling from a member of an agency staff or other qualified person. The program may not conflict with the child's regular attendance at school. The amount of work required shall be reasonably related to the seriousness of the child's offense.

W.S.A. § 48.34(5), (9).
§ 48.34 was part of comprehensive code
revision passed in 1977 and was
amended in 1979.

Currency: 3-17-81

51. WYOMING

(d) As a part of any order of disposition and the terms and conditions thereof, the court may:

(i) Require a child to make restitution for any damage or loss caused by his wrongful act;

....

(iii) Require a child to participate in a work program or to perform labor or services under the supervision of a responsible adult designated by the court and within the limits of applicable laws and regulations governing child labor, to enable the child to meet the obligations imposed pursuant to this act or for the purpose of discipline and rehabilitation when deemed necessary or desirable by the court;

Wyo. Stat. Ann. § 14-6-229(d)(i), (iii). Currency: 1980 Leg. Session
§ 14-6-229 enacted 1971, amended 1978.

END