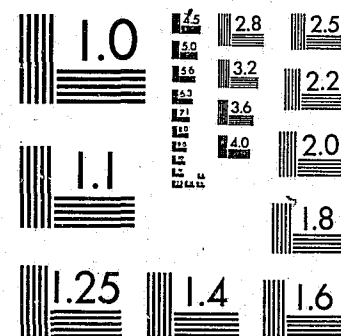


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REVIEW OF STATE LAWS
RELEVANT TO JUVENILE RESTITUTION

by
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REVIEW OF STATE LAWS RELEVANT TO JUVENILE RESTITUTION

A review of the juvenile codes of all 50 states and the District of Columbia reveals that 31 states have specific legislation authorizing restitution. Washington, D.C., and 18 states have general probation statutes which would allow the court to include restitution orders as part of the conditions of probation.

The 31 states that have specific legislation authorizing restitution are:

Alabama	Kansas	Oregon
Alaska	Kentucky	Pennsylvania
Arkansas	Maine	Rhode Island
California	Maryland	South Dakota
Colorado	Massachusetts	Utah
Connecticut	Minnesota	Virginia
Delaware	Nebraska	Washington
Florida	New Hampshire	Wisconsin
Idaho	New York	Wyoming
Indiana	North Carolina	
Iowa	Ohio	

Eighteen states and the District of Columbia have general probation statutes which allow the court to place the juvenile on probation on "such terms and conditions as the court shall determine." The exact language used in the statutes varies but these statutes generally give the court wide discretion in setting the terms and conditions of the probation without specifically mentioning restitution. The jurisdictions with these statutes are:

Arizona	Mississippi	South Carolina
D.C.	Missouri	Tennessee
Georgia	Nevada	Texas
Hawaii	New Jersey	Vermont
Illinois	New Mexico	West Virginia
Louisiana	North Dakota	
Michigan	Oklahoma	

Alabama - Ala. Code § 12-15-71 (Supp. 1978)

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: . . .

(1) Permit the child to remain with his parents, guardian or other custodian, subject to such conditions and limitations as the court may prescribe;

(2) Place the child on probation under such conditions and limitations as the court may prescribe . . .

- Ala. Code § 12-15-70 (5)

Make such 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 and such restitution as the court deems appropriate.

Alaska - Alaska Stat. § 47.10.080 (1978)

(a) The court, at the conclusion of the hearing, or thereafter as the circumstances of the case may require, shall find and enter a judgment that the minor is or is not a delinquent or a child in need of aid.

(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 sub-section.

Arizona - Ariz. Rev. Stat. Ann. § 8-241 (1978)

A. After receiving and considering the evidence on the proper disposition of the case, the court may enter the judgment as follows: . . .

2. It may award a delinquent child: . . .

(b) To a probation department, subject to such conditions as the court may impose.

Arkansas - Ark. Stat. Ann. § 45- (1978)

In addition to order [sic] authorized by other sections of this Act [§§ 45-401 -- 45-449], juvenile courts are hereby authorized and empowered to make and enforce the following special order against juveniles, . . . :

- (1) Restitution in kind or value for property stolen, damaged, destroyed or otherwise unlawfully taken or received by such juvenile
- (2) Actual medical expenses incurred as a result of willful infliction of injury by a juvenile
- (4) Payment of reasonable costs provided for under this act. Willful refusal to obey a lawful order of the juvenile court shall be enforceable by contempt proceedings.

California - Cal. Wel. and Inst. Code § 730-731 (West 1979)

§ 730 - When such ward is placed under the supervision of the probation officer or committed to his care, custody, and control, the court may make any and all reasonable orders for the conduct of such ward including the requirement that he go to work and earn money for the support of his dependents or to effect reparation and in either case that he keep an account of his earnings and report the same to the probation office and apply such earnings as directed by the court

§ 731 - [T]he court may order any of the types of treatment . . . and, in addition, may order the ward to make restitution. . .

NOTE: § 730 applies to youths adjudicated under § 601 of the California code and § 731 applies to youths adjudicated under § 602 of the California code.

Colorado - Colo. Rev. Stat. § 19-3-112, -113 (1978)

§ -113, (1) If a child has been adjudicated as being delinquent, the court shall enter a decree of disposition containing one or more of the following provisions which the court finds appropriate:

[COLORADO CONTINUED NEXT PAGE]

[COLORADO, CONT.]

- (a) The court may make any disposition. . . provided under § 19-3-112 (1) . . .

§ 19-3-112 (1) (f) The court may require the child to pay for any damage done to persons or property, upon such conditions as the court may deem best, when such payment can be enforced without serious hardship or injustice to the child.

§ 19-3-113 (e) The court may impose a fine of not more than \$300.

Connecticut - Conn. Gen. Stat. Ann. § 46b-140 (West 1979)

- (a) 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 which the adjudication of delinquency was upon an allegation that the conduct of such child resulted in the willful destruction of property; provided competent acceptance of such disposition has been given by the child and his parent or guardian.

Delaware - Del. Code Ann. Tit. 10, § 937 (1978)

- (b) Following adjudication, the court may:
 (12) Order a delinquent child to make restitution in whole or part as the court in exercise of judicial discretion determines, for the injury to the person or property of another where the monetary damage can be ascertained.

District of Columbia - D.C. Code Ann. § 16-2320 (1978)

- (c) If a child is found to be delinquent or in need of supervision, the division may order any of the following dispositions for his supervision, care and rehabilitation: . . .
 (3) Probation under such conditions and limitations as the division may prescribe.

Florida - Fla. Stat. Ann. § 39.11 (West 1979)

- (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 to:
- (a) Place a child in a community control program under the supervision of an authorized agent of the department A community control program is as defined in § 39.01(10) and shall include a penalty such as restitution, curfew, . . . , or other non-institutional punishment appropriate to the offenses and the rehabilitation program.
 - (g) Require the child to render a public service in a public service program.
 - (h) Order as a 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.

§ 39.01(10) - "Community Control" means the legal status of probation created by law and court order in cases involving a child who has been found to have committed a delinquent act.

Georgia - Ga. Code Ann. § 24A-2302 (1978)

If at the conclusion of the adjudicatory hearing the child is found to have committed a delinquent act, and subsequently is determined to be in need of treatment or rehabilitation, the court may make any of the following orders of disposition best suited to his treatment, rehabilitation and welfare:

- (b) Placing the child on probation . . . under conditions and limitations as the court prescribes . . .

Hawaii - Haw. Rev. Stat. § 571-48 (Supp. 1978)

When a minor is found by the court to come within § 571-11 [adjudged delinquent], the court shall so decree . . .

[HAWAII CONTINUED NEXT PAGE]

Upon such decree the court shall, by order duly entered, proceed as follows:

- (1) As to a child adjudicated under § 571-11(1):
- (a) The court may place the child on probation in his own home or in the custody of a suitable person elsewhere, upon conditions determined by the court.

[Any act which would be in violation of the law if the offender was over eighteen years of age.]

Idaho - Idaho Code § 16-1814 (1978)

When a child is found [to be within the court jurisdiction] the court shall so decree

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.

Illinois - Ill. Ann. Stat. Ch. 37 §§ 705-2, 705-3(2) (Smith-Hurd 1979)

- (1) The following kinds of orders of disposition may be made in respect of wards of the court:

- (a) A minor found to be a delinquent under § 702-2 may be (1) put on probation . . .

705-3(2) The court may as a condition of probation or of conditional discharge require that the minor: . . .

- (n) Perform reasonable public service work [within the youth's municipality or township of residence].
- (o) Comply with other conditions as may be ordered by the court.

Indiana - Ind. Code Ann. § 31-6-4-16 (Burns 1979)

- (g) If the child is a delinquent under § 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 . . .

Iowa - Iowa Code Ann. § 232.52 (West 1979)

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.

Kansas - Kan. Stat. Ann. § 38-826 (Supp. 1978)

- (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 an order to . . .
 - (8) 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.

Kentucky - Ky. Rev. Stat. Ann. § 208.240 (Baldwin Supp. 1978)

In adjudging a child to be within the purview of KRS 208.020 by reason of having committed a public offense, the court may require the child to make restitution or reparation to any injured person to such extent, in such sum and upon such conditions as the court determines.

Louisiana - La. Code of Juvenile Procedures, Title 4, Act 83 (West 1979)

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

[LOUISIANA CONTINUED NEXT PAGE]

[LOUISIANA, CONT.]

- (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.

Maine - Me. Rev. Stat. Ann. Tit. 15, § 3314 (West 1978)

1. 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 a 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, need, and specific rehabilitative goals;
- (2) The supervised work program is of a constructive nature designed to promote rehabilitation and is appropriate to the age level and physical ability of the juvenile.

- (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.

Maryland - MD. Cts. & Jud. Proc. Code Ann. § 3-820 (1978)

- (b) The court may:

- (1) Place the child on probation under supervision in his own home or in the custody or under the guardianship of a relative or other fit person, upon terms the court deems appropriate; . . .

[MARYLAND CONTINUED NEXT PAGE]

[MARYLAND, CONT.]

§ 3-829

- (a) In any case in which the court finds that the child has, wilfully or maliciously, either (i) stolen, damaged, or destroyed the property of another, or (ii) inflicted personal injury on another, requiring the injured person to incur medical, dental or hospital expenses, the court may enter a judgment of restitution to the wronged person against the parents or parent of the child.
- (b) The judgment rendered under this section may not exceed
 - (1) As to property stolen or destroyed, the lesser of the fair market value of the property or \$5,000
 - (2) As to property damaged, the lesser of the amount of damage not to exceed fair market value of the property damaged or \$5,000
 - (3) As to personal injuries, inflicted, the lesser of the reasonable medical, dental and hospital expenses incurred by the injured person as a result of the injury or \$5,000
 - (4) As an absolute limit against any one child or his parents, \$5,000 for all acts arising out of a single incident.
- (c) A judgment of restitution against a parent may not be entered unless the parent has been awarded a reasonable opportunity to be heard and to present appropriate evidence he may have. A hearing under this section may be held as part of an adjudicatory or disposition hearing for a child.
- (d) The judgment may be enforced in the same manner as enforcing monetary judgments.
- (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.

Massachusetts - Mass. Ann. Laws Ch. 119, §§ 58, 62 (Michie/Law Coop. 1979)

§ 58 -

If a child is adjudged a delinquent child, the court may place the case on file, or may place the child in the care of a probation officer for such time and on such conditions as may seem proper. . . .

§ 62 -

If, in adjudging a person a delinquent child, a court finds, as 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 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 a receipt therefore, keep a record of the payment, pay the money to the injured person and keep on file his receipt therefore.

Michigan - Mich. Comp. Laws Ann. § 712A.10 (1979); Mich. Stat. Annt. 27.3178(598.18)

If, however, the court finds that a child is within the provisions of this chapter, [it may enter any of the following orders]. . . .

- (b) Place the child on probation, or under supervision in his own home, upon reasonable terms and conditions . . . as the court shall determine.

Minnesota - Minn. Stat. Ann. § 260.185 (1979)

- 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;

Mississippi - Miss. Code Ann. § 43-21-19 (1978)

If the court finds that the child is neglected or delinquent or battered within the provisions of this chapter, it shall so adjudge and decree, and may, by order duly entered, proceed as follows:

- (1) Place the child under supervision in his own home or in the care of a relative, under such terms and conditions as the court shall determine and direct . . .

Missouri - Mo. Ann. Stat. § 211.181 (Vermon 1979)

When a child is found by the court to come within the applicable provisions of § 211.021, the court shall so decree and make finding of facts upon which it exercises its jurisdiction over the child and the court may, by order duly entered, proceed as follows:

- (1) Place the child under supervision in his own home or in custody of a relative or other suitable person upon such conditions as the court may require; . . .

Montana - Mont. Rev. Codes Ann. § 41-5-523 (1978)

- (1) If a youth is found to be delinquent or in need of supervision, the court may enter its judgment making the following dispositions:

- (a) Place the youth on probation . . .

[NOTE: The statute does not include the words so commonly found in general probationary statutes, "on such terms and conditions as the court provides."]

Nebraska - Neb. Rev. Stat. § 43-210 (Supp. 1978)

When any child is adjudicated to be a child described in subdivision (3) or (4) of § 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 . . .

Nevada - Nev. Rev. Stat. § 62.200 (1977)

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:

- (a) Place the child under supervision in his own home or in the custody of a suitable person elsewhere, upon such conditions as the court may determine.

New Hampshire - Public Safety and Welfare Code, § 169.14 (1977)

When a child is found to be delinquent, the court may commit the child to the youth development center or require the child to make restitution or continue the case with such orders as to care, custody and probation as justice and the welfare of the child require.

New Jersey - N.J. Stat. Ann. § 2A:4-61 (West 1979)

If a juvenile is adjudged delinquent the juvenile and domestic relations court may order any of the following dispositions:

- b. Release the juvenile to the supervision of his parents or guardian; or
- c. Place the juvenile on probation to the chief probation officer of the county or to any other suitable person who agrees to accept the duty of probation supervision for a period not to exceed three years upon such written conditions as the court deems will aid rehabilitation of the juvenile; or . . .
1. Such other disposition not inconsistent with this act as the court may determine

New Mexico - N.M. Stat. Ann. § 32-1-34 (1978)

- B. If a child is found to be delinquent, the court may enter its judgment making any of the following dispositions for the supervision, care and rehabilitation of the child: . . .

[NEW MEXICO CONTINUED NEXT PAGE]

[NEW MEXICO, CONT.]

- (3) Place the child on probation under those conditions and limitations as the court may prescribe.

§ 32-1-46

- A. Any person may recover damages not to exceed Two-thousand Five-hundred dollars (\$2,500) in a civil action in a court or tribunal of competent jurisdiction from a parent, guardian or custodian of the child when the child maliciously or wilfully injured a person or damaged or destroyed property, real or personal, belonging to the person bringing the action.
- B. Recovery of damages under this section is limited to the actual damages proved in the action not to exceed Two-thousand Five-hundred dollars (\$2,500), taxable court costs, and in the discretion of the court, reasonable attorney's fees to be fixed by the court or tribunal.
- 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/she has been found to be within the provisions of the children's code.

New York - N.Y. Family Ct. Act, §§ 753, 757 (McKinney 1979)

§ 753.

Upon an adjudication of juvenile delinquency, the court shall enter an order of disposition: . . .

- (c) Putting the respondent on probation in accord with § 757; . . .

§ 757

- (c) The court may order as a condition of probation, restitution or service for the public good, pursuant to § 758a.

§ 758

- (a) Restitution

1. Rules of court shall define permissible terms and conditions of restitution or service for the public good as set forth in this section.

[NEW YORK CONTINUED NEXT PAGE]

[NEW YORK, CONT.]

2. In cases involving adolescents of over ten and under sixteen years of age, the court may:
- (a) Recommend as a condition of placement or order as a condition of probation, or suspend a judgment, restitution in an amount representing a fair and reasonable cost to replace the property or repair the damage caused by the adolescent, not, however, to exceed One-thousand dollars (\$1,000). In the case of a placement, the court may recommend that the adolescent pay out of his/her own funds or earnings the amount of replacement or damage, either in a lump sum or in periodic payments in amounts set by the agency with which he is placed, and in a case of probation or suspended judgment, the court may require that the adolescent pay out of his/her own funds or earnings the amount of replacement or damage, either in a lump sum or in periodic payments in amounts set by the court; or
- (b) order as a condition of placement, probation or suspended judgment services for the public good taking into consideration the age and physical condition of the adolescent.
3. If the court recommends restitution or requires service for the public good in conjunction with an order of placement, pursuant to §§ 753a or 756, the placement shall be made only to an authorized agency, including the division for youth which has adopted rules and regulations for the supervision of such a program, which rules and regulations (except in the case of the division for youth) shall be subject to the approval of the office of court administration and consultation with the board of social welfare. Such rules and regulations shall include, but not be limited to, provisions:
- (i) assuring that the conditions of work, including wages, meet the standards therefore prescribed pursuant to the labor laws;
- (ii) affording coverage to the child under the workmen's compensation law as an employee of such agency, department, division, or institution;
- (iii) assuring that entity receiving such services shall not utilize the same to replace

[NEW YORK CONTINUED NEXT PAGE]

[NEW YORK, CONT.]

its regular employees;

(iv) providing for reports to the court no less frequently than every six months unless the order provides otherwise;

4. If the court requires restitution or services for the public good as a condition of probation or suspended judgment, it shall provide that an agency or a person supervise the restitution or services and that such agency or person report to the court not less frequently than every six months, unless the court provides otherwise.
5. The court, upon receipt of the reports provided for in subdivision (3) or (4) of this section may, on its own motion or the motion of any party or agency, hold a hearing to determine whether the placement should be altered or modified.

[NOTE: Prior to the passage of this amendment, the family court in New York possessed authority to require restitution services for the public good by a child over ten and less than sixteen years of age who was placed on probation in connection with a case involving malicious acts. This amendment extends similar authorization to the court regarding children who are subject to an order of placement or suspended judgment. The new amendment drops the reference to the characterization of the youth's acts as malicious and raises the limit to which restitution may be made to \$1,000 from \$500.

North Carolina - N. C. Gen. Stat. § 7A-286 (Supp. 1977);
Child Welfare Law, Art. 2, § 110-22.

- (4) In the case of any child who is delinquent or undisciplined, the court may:
 - (b) Place the child on probation for whatever period of time the court may specify, and subject to such conditions of probation as the court finds are related to the needs of the child and which the court shall specify, under the supervision of the juvenile probation officer . . .

§ 110-22

When the court places any child on probation, the court order shall specify conditions of probation and the period of time the child shall remain on probation. The conditions of probation shall be designed by the

[NORTH CAROLINA CONTINUED NEXT PAGE]

[NORTH CAROLINA, CONT.]

court to meet the needs of the child, and may include any of the following or such other conditions of probation as the court may order in the best interests of the child:

- (5) that the child make specified financial restitution or pay a fine

North Dakota - N.D. Cent. Code § 27-20-31 (1977)

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, rehabilitation, and welfare: . . .

2. Placing the child on probation under the supervision of the juvenile supervisor, probation officer, or other appropriate officer of the court under conditions or limitations the court prescribes . . .

Ohio - Ohio Rev. Code Ann § 2151.355 (Page 1978)

- (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: . . .
 - (2) Place the child on probation under any conditions the court prescribes; . . .
 - (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 provision (K) of § 2913.01 of the Revised Code, if committed by an adult. If the court determines that the victim of the child's delinquent act is 65 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.
- (C) At any hearing at which a child is adjudicated delinquent or as soon as possible after the hearing, the court shall notify all victims of the delinquent act who may be entitled to a recovery under any of the following sections, of the right of the victims to recover,

[OHIO CONTINUED NEXT PAGE]

[OHIO, CONT.]

pursuant to § 31.09.10 of the Revised Code, compensatory damage from the child's parents, for wilful and malicious assaults committed by the child; and the right of the victim to recover and award of reparation pursuant to §§ 2743.51 to 2743.72 of the revised code.

Oklahoma - Okal. Stat. Ann. Tit. 10, § 1116 (West 1979)

- (a) The following kinds of orders of disposition may be made in respect to wards of the court:
- (1) The court may place the child on probation or under supervision in his own home, or in custody of a suitable person elsewhere, upon such conditions as the court shall determine.

Oregon - ORS § 419.507 (1977)

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 it may:

- (1) Place the child on probation Restitution for property taken, damaged or destroyed by the child may be required as a condition of probation.

Pennsylvania - Pa. Stat. Ann. Tit. 11, § 50-322 (Pardon 1978)

- (a) 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: . . .
- (6) An order of the terms of probation may include an appropriate fine considering the nature of the act committed or restitution not in excess of actual damages caused by the child which shall be paid from the earnings of the child received through participation in a constructive program of service or education acceptable to the victim and the court whereby, during the course of such service, the child shall be paid not less than the State's minimum wage. In ordering such service,

[PENNSYLVANIA CONTINUED NEXT PAGE]

[PENNSYLVANIA, CONT.]

the court shall take into consideration the child's age, physical and mental capacity and the service shall be designed to impress upon the child a sense of responsibility for the injuries caused to the person or property of another. The court order shall specify the nature of the work, the number of hours to be spent performing the assigned tasks, and shall further specify that as part of a plan of treatment and rehabilitation that up to 75% of the child's earnings be used for restitution in order to provide positive reinforcement for the work performed.

Rhode Island - R.I. Gen. Laws §§ 12-19-32, 12-19,33, 14-1-32 (Supp. 1978)

§ 12-19-32

In addition to or in lieu [sic] of any nonmandatory sanction imposed as part of a sentence or as a condition [of] probation, a judge at the time of sentencing may order restitution which may be in the form of monetary payment or some type of community service.

§ 12-19-33

In addition to the power already vested in the family court a justice may order restitution which may be in the form of monetary payment or some type of community service.

§ 14-1-32

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, on 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 the damaged property by said child, his or her parent, parents, or guardian, or other lawful custodian upon examination, and after finding that said child or his or her parent, parents, guardian or other lawful custodian has the ability to pay said restitution.

South Carolina - S.C. Code § 14-21-620 (Supp. 1978)

When a child is found by the court to come within the provisions of the (Juvenile Court Act), 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 child.

Upon such decree, the court may, by order duly entered, proceed as follows:

- (a) Place the child on probation or under supervision in his home or in the custody of a suitable person elsewhere, upon such conditions as the court may determine.

NOTE: The Attorney General of South Carolina has interpreted this Code to not permit orders of monetary restitution. However, on May 14, 1980, this section of the law was amended to provide:

"Section 1. Item (a) of Section 14-21-260 of the 1976 Code is amended by adding: '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.'"

South Dakota - S.D. Codified Laws Ann. § 26-8-39.2 (Supp. 1978)

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.

Tennessee - Tenn. Code Ann. § 37-231 (Supp. 1978)

If the child is found to be a delinquent child the court may make any of the following orders of disposition best

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[TENNESSEE, CONT.]

suited to his treatment, rehabilitation, and welfare: . . .

- (2) Placing the child on probation under the supervision of the probation officer . . . under the conditions and limitations the court prescribes;
- (5) Assessing a fine not to exceed Fifty dollars (\$50) for each offense which constitutes a violation of state law or municipal ordinance.

Texas - Tex. Rev. Civ. Stat. Ann. Art. 54.04 (Vernon 1979)

- (c) No disposition may be made under this section unless the court finds that the child is in need of rehabilitation or that the protection of the public or the child requires that disposition be made. If the court does not so find, it shall dismiss the child and enter a final judgment without any disposition.
- (d) If the court makes the finding specified in Subsection (d) of this section, it may:
 - (1) Place the child on probation on such reasonable and lawful terms as the court may determine for a period not to exceed one year; subject to extensions not to exceed one year each;

Utah - Code Ann. § 78-3a-39

When a child is found to come within the provision of the [Justice Code], the court shall so adjudicate, and make a finding of the facts upon which it bases[sic] 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.

Vermont - Vt. Stat. Ann. Tit. 33 § 657 (1979)

- (a) If a child is found by a juvenile court on proceedings under this chapter to be a delinquent child, the court may . . . make at any time thereafter any of the following orders of disposition

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[VERMONT, CONT.]

most suited to his/her treatment, rehabilitation, and welfare: . . .

- (2) Place the child on probation under such conditions and limitations as the court may prescribe.

Virginia - Va. Code § 16.1-279 (Supp. 1979)

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.

Washington - Wash. Rev. Code Ann. §§ 13.40.160, 13.40.190 (West 1979)

- (3) A juvenile appearing before the court for formal disposition who has declined to enter into a diversion agreement and who would otherwise be so entitled shall, if determined to be a first or minor offender, be referred to a diversionary unit under the supervision of which such youth may only be required to perform the term of community service and, where there is a victim, shall be required to make restitution under the limits specified in this chapter.

§ 13.40.190

- (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. 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 if the respondent reasonably satisfies the court that he/she

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[WASHINGTON, CONT.]

does not have the means to make 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 15 weeks, restitution may be waived.

- (2) A respondent under obligation to pay restitution may petition the court for modification of the restitution order.
- (3) When a respondent who has been ordered by the court to pay a fine or restitution, or to perform service for the public good, fails to fulfill that order, the court upon the motion of the prosecutor or upon its own motion, shall require the respondent to show cause why the respondent should not be confined to a detention facility for non-fulfillment. The court may issue a summons or a warrant for arrest to compel the respondent's appearance.
- (4) The respondent shall have the burden of showing that non-payment or non-fulfillment was not a wilful refusal and that he/she did not have the means to pay the fine or restitution or to perform a service for the public good. If the court finds that the default was wilful, it may order that the youth be detained in a county facility one day for each \$25 of restitution or fine on which he/she wilfully defaulted, or may order the youth to be taken into the county facility one day for each three hours of community service in which the youth wilfully defaulted.

West Virginia - W. Va. Code § 49-5-13 (Supp. 1979)

- (b) Following the adjudication, the court shall . . . give preference to the least restrictive of the following alternatives consistent with the best interests and welfare of the public and the child:
- (3) Upon a finding that the child is in need of parental supervision (a) place the child under the supervision of a probation officer of the court or of the county where the child has its usual place of abode, or other person while leaving the child in custody of his parents or custodian and (b) prescribe a program of treatment or therapy or limit the child's activities under terms which are reasonable and within the child's ability to perform; . . .

Wisconsin - Wis. Stat. Ann. § 48.34 (West 1979)

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 sections 4(m) and (8) shall be exclusive dispositions.

- (2) Place the child under supervision of an agency if the department approves, or a suitable adult, including a friend of the child, under conditions prescribed by the judge including reasonable rules for the child's conduct and the conduct of the child's parents, guardian, or legal custodian, designed for the physical, mental and moral well-being and behavior of the child.
- (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. 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.
- (8) If the judge finds that no other court services or alternative services are needed or appropriate, it may impose a maximum forfeiture of \$50 based upon a determination that this disposition is in the best interests of the child and in aid of rehabilitation. Any such order shall include a finding that the child alone is financially able to pay the forfeiture and shall allow up to twelve months for payment. If the child fails to pay the forfeiture, the judge may vacate the forfeiture and order other alternatives under this section, in accordance with the conditions specified in this chapter.
- (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 court program may provide the child reasonable compensation reflecting a reasonable market value of the work performed, and shall be administered by the county department or public welfare or community agency approved by the judge.

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[WISCONSIN, CONT.]

- (b) Supervised work programs shall be of a constructive nature designed to promote 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.

Wyoming - Wyo. Stat. § 14-6-229 (1979)

- (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 created by his wrongful act;
 - (ii) impose a fine within the limits of law for an offense or misconduct by the child, where a fine might be imposed by another court in this state having jurisdiction thereof. Fines shall be paid to the clerk of the court for deposit to the public school fund of the county in which the fine was assessed as provided by law;
 - (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 for the purpose of discipline and rehabilitation as deemed unnecessary or desirable by the court.

END