

Enforcement – Petition for Order to Show Cause

Obtaining a restitution lien or order does not mean you will receive prompt payment of your economic losses. If you have not received timely payments of restitution, Arizona law allows you to seek help from the court. Any person entitled to restitution based on a court order may petition the court to order the defendant to show cause (offer a reason) why the non-payment of restitution should not be treated as contempt. Once your petition is filed, the court must schedule a hearing requiring the defendant to appear and give testimony under oath concerning his or her financial condition, employment and assets or any other issue affecting the ability to make restitution payments. The hearing also allows the court to evaluate how best to ensure payment of restitution.

To **File** a Petition:

- 1) Complete the **Petition for Order to Show Cause**. All the information is necessary. You will need case information, to include the date the court ordered restitution, the amount, the manner of payment ordered, the amount currently in arrears and the overall outstanding balance remaining. **Please be aware that the name, address and phone number of the person filing (victim) must be included on this form which will be a public court document.**
- 2) Complete the **Request for Defendant’s Payment History**. A.R.S. § 13-810(H) allows you to obtain, at no cost, the defendant’s payment history from the clerk of the sentencing court. You should contact the clerk of the court ahead of time to see if you can fax this request to the office and determine how long it will take to process this request. Best practice would be for you to include the **Defendant’s Payment History** that you receive from the clerk of the court as an attachment to your **Petition for Order to Show Cause** at the time of filing as it will be important information for the judge to have at the hearing.
- 3) Take the completed, original **Petition for Order to Show Cause** and **Defendant’s Payment History** to the clerk of the sentencing court for filing. Make sure you make a copy of each document for your records and request that the clerk of court date stamp your copies as proof of filing. The petition will be forwarded to the court for review and to schedule a hearing.
- 4) You will receive a notice from the court scheduling a hearing on the petition. As the person requesting the hearing, you should attend the hearing to address the defendant’s failure to comply with the original restitution order, otherwise the court may dismiss your motion. You have the right to question the defendant about the non-compliance. The court will issue orders based on the testimony and information presented at the hearing. You should receive a copy of the court’s Minute Entry document summarizing the proceeding and/or other orders entered by the court.